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Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women
Sixty-first session

Summary record of the 1307th meeting*
Held at the Palais des Nations, Geneva, on Tuesday, 7 July 2015, at 10 a.m.

Chairperson: Ms. Hayashi

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Combined third to seventh periodic reports of Senegal

* No summary record was issued for the 1306th meeting.

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of the present document* to the English Translation Section, room E.6040, Palais des Nations, Geneva (trad_sec_eng@unog.ch).

Any corrections to the records of the public meetings held during this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

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The meeting was called to order at 10 a.m.

Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women (*continued*)

Combined third to seventh periodic reports of Senegal (CEDAW/C/SEN/3-7; CEDAW/C/SEN/Q/3-7 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Senegal took places at the Committee table.*

2. **Mr. Sene** (Senegal) said that Senegal had ratified nearly all relevant international and regional conventions, an expression of its will to promote human rights, the autonomy of women, and the emergence of strong female leadership. He welcomed the favourable comments of the Working Group on Discrimination against Women in Law and Practice, which had recently paid a visit to Senegal and had noted the country's progress in implementing international and legal instruments for the protection and promotion of women's rights.

3. Having established the elimination of gender-based violence as a priority, the Government of Senegal, with the assistance of United Nations specialized agencies, had launched a programme, based on standard operating procedures, for the prevention of violence and the protection of victims.

4. Recent noteworthy events included the inauguration of the new Support and Assistance Centre for the Rehabilitation of Women with Fistulas, which had been held on the International Day to End Obstetric Fistula; and the ratification, by the President of Senegal, of the ILO Maternity Protection Convention, 2000 (No. 183).

5. The Government was committed to the promotion of parity in decision-making processes; accordingly, a law had been adopted, in 2010, requiring absolute parity between men and women in fully or partially elected bodies. The National Observatory on Parity had been set up to monitor the implementation of gender equality and the effective implementation of the parity law, and the Electoral Code had been revised accordingly. As a result, the number of women representatives in the National Assembly had almost doubled since the previous election. On the local level, the number of women in elected posts had tripled.

6. The Government had also taken measures to strengthen social protection mechanisms. In 2013, it had launched the universal health-care coverage programme, and had begun providing financial and family security grants to households. In 2014, it had established a community-based programme for persons with disabilities, and another disabilities programme which dispensed "equal opportunity cards" for medical care, equipment, education and training, inter alia.

7. An operational action plan had been established to promote youth employment, and a national forum had been held on the subject. The Government had also recently launched the Community Farmland Programme, which was aimed at making agriculture the primary source of employment in Senegal, and a catalyst for economic growth.

8. For the protection of children and other vulnerable groups, the Government intended to strengthen legal, institutional and administrative measures for responding to children's needs, and to promote the correct use of the legal instruments already in place. It also intended to develop an action plan on child marriage.

9. Overall, Senegal had made important advances in combating discrimination against women; with the participation and support of partners in civil society and the private sector, it should be possible to ensure adherence to international standards.

Articles 1 to 6

10. **Ms. Schulz** noted that the prompt ratification, without reservations, of the Convention on the Elimination of All Forms of Discrimination against Women by the Government of Senegal had attested to its commitment to human rights for women. She also observed that the authorities were engaged in a constant dialogue with civil society in the search for solutions to acknowledged problems. She regretted, however, that Senegal had not submitted a periodic report to the Committee since 1994.

11. The Convention had been integrated into the national constitution, and therefore had constitutional status. And yet, there was a gap between international commitments and the discriminations that remained entrenched in the national laws, especially in the Family Code. Moreover, there were many discriminatory societal practices, despite the existence of egalitarian laws.

12. She wished to know, in that regard, what measures were in place to inform women, whatever their social class and age, of their rights under the Convention and the Optional Protocol thereto. In addition, she wondered what strategies were in place to provide training and awareness-raising to all members of the judiciary about the rights of women, and to tackle the problem of sexual bias. In view of the absence of any procedures for determining the unconstitutionality of discriminatory laws, she enquired whether the Government had envisaged allowing women's organizations to defend the rights of women before the courts, in civil, criminal, administrative and labour-related matters.

13. Taking note of efforts to restore "A" status to the Senegalese Human Rights Committee, she asked whether the Government would ensure its independence, provide it with funding, and allow it both to bring cases of discrimination before the courts and to play a role in the legislative process.

14. She wondered whether the Government planned to expand its network of community justice centres ("maisons de justice"), and to empower them to bring cases before the courts. She also wished to know whether the Government had a precise schedule for reviewing discriminatory provisions, especially the Family Code, given that the Committee had stressed the urgency of such a review as far back as 1994.

15. **Ms. Wade** (Senegal) said that the Government had summarized the Convention to make it more understandable, and had then translated it into the national languages; it had been distributed to ministries and civil society organizations. Emphasis had been placed on distributing it to both rural and urban women, all of whom needed to know their rights.

16. Recently, workshops had been organized for persons dealing with victims of gender-based violence.

17. **Mr. Seye** (Senegal) said that a department had been set up to raise awareness about international conventions and agreements, including those related to the rights of women. A concerted effort was being made to inform citizens of their rights, women's rights in particular.

18. Concerning the question about the constitutionality of national laws, he said that any woman who deemed a law to be unconstitutional could file a challenge through the Constitutional Council. He had no statistics, however, on cases of women who had done so.

19. The Criminal Code and the Code of Criminal Procedure had been reformed. Civil society associations that wished to challenge the constitutionality of laws in the courts could now do so; no such situations had yet arisen. Considerable attention had been paid to that matter, since the women who participated in those associations were aware of the issues affecting their rights. It was important to recall that the literacy rate in Senegal was high, in comparison with other developing countries; there were many well-educated women in Senegal interested in the rights of women.

20. The draft revised Family Code was currently circulating among the ministries, which were expected to give their views.

21. The Senegalese Human Rights Committee had the task of promoting and defending human rights and raising awareness with regard to those rights. That body was being reorganized, and in the future would be called a commission. It would be independent, well-funded, and financially autonomous.

22. The Government of Senegal had been receiving communications from other African countries that wanted to learn more about its network of community justice centres ("maisons de justice"). The question as to whether the community justice centres might be permitted to bring proceedings before a court on behalf of individuals was worth considering, as was the question whether non-governmental organizations should also have that power. Currently, it was the public prosecutors that made decisions to refer cases for trial, and to apply the law concerning violence against women. In his view, the Senegalese judiciary was sufficiently aware of those issues.

23. Much had been done to bring national legislation into conformity with the Convention. In particular, the code on children's rights had been reviewed, and discriminatory provisions revised. The Government fully agreed that the Family Code was not aligned with the Convention, and that there were flaws in the provisions on marriageable age, arranged marriages, and corporal punishment, among others.

24. **Ms. Schulz** said that she wondered whether, in the view of the delegation, the adoption of a law incorporating the definition of discrimination contained in the Convention would attract public attention to the concept of discrimination against women.

25. She also wished to know if individuals and associations were entitled to challenge the constitutionality of administrative or civil provisions, or only provisions of the Criminal Code.

26. She observed that the absence of cases in which women challenged the constitutionality of discriminatory laws might well be related to the lack of legal aid for persons without resources.

27. **Mr. Seye** (Senegal) said that it might indeed be advisable to incorporate the definition of discrimination contained in the Convention verbatim. He read out article 1 of the Convention, observing that that provision was not, in fact, reflected in Senegalese domestic law, although discrimination was punishable on other grounds.

28. In general, the public considered discrimination against women to be a matter of beatings and blows; it would be interesting to ponder that popular misconception when revising the national laws.

29. Individuals and associations were currently empowered to challenge only criminal provisions; thought would be given to expanding that power to the area of civil and commercial law.

30. He said that 400 million CFA francs had been earmarked for legal aid in criminal cases. If the Committee had received reports of widespread rape in Senegal, it should be aware that the courts prosecuted alleged rapists vigorously.

31. **Ms. Gabr** said that she was aware that the State party was highly conscious of its image and very concerned about fulfilling its obligations under international conventions. For that reason, she urged the delegation members to do their utmost to persuade their colleagues in the Government of the importance of adopting the necessary bills and legislative amendments. The Senegalese authorities should also bear in mind that they could count on the Committee's follow-up mechanism, as part of which States parties were asked to report on progress in given areas within two years.

32. **Ms. Niang** (Senegal) said that Senegal was concerned less about burnishing its image than about meeting its commitments. Consequently, laws in all areas were undergoing a thorough review to determine what worked and what did not. Even though Senegal had not incorporated into law the definition of discrimination exactly as it appeared in the Convention, it had acknowledged the existence of discrimination in a number of areas. The gap between what was stated in the Convention and what appeared in the Constitution of Senegal was not very wide. Discrimination in Senegal was multidimensional, insofar as it tended to affect poorer or lower-status women more severely.

33. **Ms. Pomeranzi** said that it was well known that women acted as agents of development in Senegal but that it was not entirely clear to what extent the various ministries were committed to implementing measures to ensure the full development and advancement of women. In that connection, she wondered whether the Ministry of Women, Children and the Family was in a position to begin work on ensuring that gender issues were mainstreamed in the other principal ministries. She also wondered how the Ministry's small Directorate for Gender Equity and Equality could really do effective work in all areas of the country. More information on the Ministry's ability to advance the cause of gender equality would be welcome, as would information on the results of joint exercises with the Ministry of Justice with a view to drawing up a budget for programmes to combat violence against women and children.

34. **Ms. Haidar** said that legal and political measures alone were not sufficient to attain true equality between men and women. Temporary special measures, provided for by article 4 of the Convention, could therefore be taken to help States parties achieve de facto equality. Those measures could include aid programmes, resource allocation or redistribution programmes or even hiring preferences. She called on the State party to consider taking such temporary special measures, which were fully explained in the Committee's general recommendation No. 25 on article 4, paragraph 1, of the Convention (Temporary special measures). Although those measures were commonly seen as providing a remedy for past discrimination, they could also be taken to combat current and multidimensional discrimination. Lastly, she wished to know whether the State party was considering taking such measures either in the context of the Emerging Senegal Plan or as part of efforts to achieve equality in such areas as higher education and access to land.

35. **Ms. Niang** (Senegal) said that in 2004–2005 Senegal had developed a national strategy on gender equality to combat discrimination against women and girls in all areas, with a special emphasis on school enrolment. Among the special measures that Senegal had taken, often with the encouragement of civil society organizations, was the Act on Gender Parity.

36. **Ms. Wade** (Senegal) said that the Directorate for Gender Equity and Equality's move to the Ministry of Women, Children and the Family did not prevent it from fulfilling its mandate, which involved coordinating inter-agency efforts to implement the National Strategy for Gender Equity and Equality. Despite the difficulties of coordinating such cross-cutting efforts, a plan to implement the strategy had been drawn up that provided for the creation of gender units to encourage the

mainstreaming of gender issues in various ministries. The Ministry of the Armed Forces, for instance, had made great efforts to ease conditions of service for women in the Senegalese Armed Forces. The Ministry of Higher Education and Research, for its part, was taking special measures to encourage women to pursue post-secondary studies.

37. The coupling of the National Strategy for Gender Equity and Equality and the Emerging Senegal Plan, which was currently under way, was a process involving grass-roots organizations, civil society, financial and technical partners and government ministries. That participatory approach had been taken to address the real problems encountered by the people of Senegal. It would in all likelihood lead the authorities to take some of the temporary special measures mentioned by Ms. Haidar.

38. **Ms. Thiam** (Senegal) said that the Ministry of Women, Children and the Family had a number of programmes to help women escape poverty. The Integrated Economic and Social Development Programme 2012–2015, for example, worked for the advancement of women and girls in eight local authorities in the Kaolack and Dakar regions. Vocational training and literacy programmes had been set up in rural areas, and the Ministry managed a number of funds to finance women's micro-enterprises. The Ministry had developed action plans to accelerate the shift away from harmful traditional practices. An assessment of the results of those plans was still necessary, however.

39. **Ms. Diallo** (Senegal) said that one of the pillars of the Emerging Senegal Plan was the promotion of human capital. As a result, many of the plan's flagship programmes, such as the development of departmental training and assistance centres for women, targeted women and girls. Legal aid was available at those centres to support women who wished to file complaints against persons who subjected them to violence.

40. The Act on Gender Parity had been adopted as a result of joint efforts made by civil society, the Government and technical partners. The National Observatory on Gender Parity, an independent body, bore responsibility for ensuring that the Act was enforced. Sixty-four women, nearly twice as many as previously, had won seats in the legislature in the most recent legislative elections. On the rare occasions when electoral lists were not evenly divided between men and women, it appeared to be because the lists had an odd number of candidates. It was true that the Act was implemented in a cultural, religious and political context that sometimes entailed resistance, but the Government's determination to increase women's participation in decision-making bodies was real. Indeed, only one week earlier the National Assembly had amended one of its rules of procedure to ensure that requirements for gender parity applied to its Bureau.

41. **Mr. Seye** (Senegal) said that a gender unit had also been established in the Ministry of Justice.

42. **Ms. Pomeranzi** said that it was her understanding that the joint efforts of the Ministry of Women, Children and the Family and the Ministry of the Economy and Finance to draw up a budget for women's issues had been discontinued. She wished to know whether they were to be resumed.

43. **Ms. Pimentel** asked to what extent the Ministry of Justice and the Ministry of Women, Children and the Family were working together to ensure that judicial and law enforcement personnel were appropriately gender-sensitive.

44. **Ms. Niang** (Senegal) said that Senegal had implemented a social protection policy and had collaborated with the Italian Government in that regard. The policy had provided grants to women from disadvantaged backgrounds in order to help them

overcome financial and schooling difficulties. The Government had also developed a National Social Protection and Risk and Disaster Management Strategy which focused on reforming the social security system.

45. **Ms. Ba** (Senegal) said that, through the universal health coverage policy, measures had been taken to provide free social protection to disadvantaged women, children, the elderly and persons with disabilities. Efforts had been made to combat maternal and infant mortality, such as by sending midwives to the most remote areas of the country. Certain health services had also been made free of charge, including caesarean sections, family planning, and childbirth in specific areas of the country. Preliminary evaluations of health-care institutions and systems had indicated that gender was not being sufficiently taken into consideration and, consequently, the Government intended to address the issue.

46. **Ms. Wade** (Senegal) said that, regarding the issue of gender-sensitive budgeting, efforts in that field would be strengthened through the establishment of the General Directorate responsible for the planning of economic policies. Once the General Directorate was fully operational, it would be mandatory for all projects to be sensitive to the issue of gender in order to receive funding from the State party.

47. **Ms. Al-Dosari** said that she would like to know what measures had been implemented to combat harmful traditional practices, such as female genital mutilation (FGM) and forced marriage, what kind of awareness programmes were in place to address such issues, what efforts had been made to prohibit the practice of polygamy, levirate and sororate marriages, food prohibitions and repudiation, and finally what reforms had been made to the Criminal Code and the Code of Criminal Procedure regarding such practices.

48. **Ms. Gabr** said that female genital mutilation was a social practice and was not to be mistaken as a religious practice. It would be useful to know what was being done to encourage women to report cases of domestic violence, to encourage society as a whole to talk about such issues, and what the Government was doing to strengthen the financial and human resources of the National Observatory on Parity in order to fulfil its role as a monitoring body for cases of domestic violence. A comment on whether Senegal intended to introduce a law or national strategy to combat domestic violence would also be appreciated, as would any information on efforts to train members of the judiciary and law enforcement agencies to overcome inherited stereotypes.

49. **Mr. Seye** (Senegal) said that considerable efforts had been made, by both the State and civil society organizations, to train law enforcement and judicial officials on the issue of discrimination and violence against women. Since 2012, the Ministry of Justice had become more active in preventing violence against women through the establishment of a directorate for criminal affairs which had brought such issues as female genital mutilation (FGM) to the fore. The directorate had conducted a nationwide assessment, funded by UNICEF, of FGM practices and had proposed legislative measures to combat them. Non-governmental organizations were also involved in providing training to legal personnel, an example being Justice Rapid Response, which would shortly be holding a seminar on methods of investigating sexual crimes. Furthermore, the Ministry of Justice had organized a think tank on the issue of violence against women, and the Government's rigorous approach to domestic violence was illustrated by the fact that, if even a judge were to be convicted of such a crime, a suspended sentence would be impermissible.

50. **Mr. Sene** (Senegal) said that it was perhaps the rigour of national laws that prevented women from reporting cases of domestic violence because of the consequences that the imprisonment of their husbands would have on their families and the upbringing of their children. Nonetheless, the severity of the law in itself

demonstrated that Senegal was a country that was willing to do all it could to protect women.

51. **Ms. Niang** (Senegal) said that all ministries in Senegal were alert to the issue of impunity given its cross-cutting nature. Regarding funding, the State set aside a substantial annual sum to implement the Act on full gender parity. However, there was still a funding shortfall in certain areas and, although all ministries earmarked a certain amount for gender policies, there was no mechanism for calculating the total amount available across all ministries and how to make effective use of it. Funding was also provided through partnerships with international organizations, such as the United Nations Development Fund for Women, and with foreign States, such as Italy, but such funding was primarily accorded as a follow-up to measures already implemented by Senegal and not as a means of promoting gender equality.

52. **Ms. Thiam** (Senegal) said that two action plans had been conducted on the issue of female genital mutilation (FGM). The first had produced positive results, while the second, aimed at implementing a zero-tolerance approach to excision by 2015, was in the process of being evaluated. Senegal had also developed a national strategy to eliminate FGM, and had adopted Act No. 99-05 prohibiting excision, although the latter had not yet been enforced due to the unwillingness of victims to come forward and report crimes. With regard to gender-based violence, a joint programme to combat gender-based violence and promote human rights (2013–2015) had been initiated in collaboration with United Nations specialized agencies. Standard operating procedures had been developed for the programme with the aim of applying them nationally in order to provide a consistent response to gender-based violence. Importantly, Senegal was engaging in a debate that had previously been considered taboo, which was a sign of progress in itself. Finally, many studies were being conducted to take stock of the situation regarding gender-based violence.

53. **Ms. Ba** (Senegal) said that "Badienou Gox" was an important community programme that addressed a number of issues, including female genital mutilation (FGM) and reproductive health. The programme consisted of training women from local communities to act as intermediaries between their communities and the health system in order to facilitate communication and awareness-raising at grass-roots level. The programme had proven to be successful in the field of family planning in particular. The same community model had more recently been used to involve men in the solution of gender-based issues, including family planning, reproductive health, and the prevention of HIV and FGM. Both religious and political leaders were also very much involved in awareness-raising work with communities in order to encourage them to engage with the justice system as a response to gender-based violence.

54. **Ms. Jahan** said that, despite the existence of the national plan to combat trafficking in persons, Senegal remained a country of origin, transit and destination for the trafficking and prostitution of women and children. The gap between legislation and enforcement was a result of the lack of understanding concerning the gender-sensitive nature of such issues. She asked what measures were being taken to ensure sufficient human and financial resources for the implementation of the national plan and whether Senegal intended to incorporate a definition of the trafficking of women into the Criminal Code and the Act on human trafficking in accordance with the Palermo Protocol. She also wished to know whether stronger measures were being taken to identify trafficking victims, such as prostitutes and domestic workers, whether law enforcement officials were being trained to provide assistance to victims and to appropriately investigate, prosecute and punish offenders, what safeguards were in place to encourage victims to report cases, and whether adequately resourced labour inspectorates had been established to monitor cases of trafficking. Internet marriages,

and forced labour. In addition, a comment would be appreciated on victim assistance measures in place, such as the availability of shelters for women and access to justice and medical welfare, as well as measures for the rehabilitation and reintegration of female victims. Disaggregated data, particularly pertaining to the number of prosecutions of cases of trafficking, forced begging in Koranic schools, and officials complicit in such crimes, were also needed.

55. More information was also needed on prostitution in Senegal, such as the number of prostitutes detained for not being legally registered, action taken to prevent pimping in accordance with section 323 of the Criminal Code, measures to reduce the HIV prevalence rate among prostitutes, which stood at almost 20 per cent, and measures to reintegrate former prostitutes into society.

56. **Mr. Seye** (Senegal) said that obtaining sufficient financial and human resources for the implementation of the national plan to combat trafficking in persons was a complicated task that was taken seriously by the Senegalese Government. As part of the work of revising the Criminal Code, consideration was being given to adopting a definition of trafficking in women. A hotline had been set up to assist in victim identification. Moreover, the police were stepping up their enforcement response to trafficking, as was demonstrated by the investigation and imprisonment of persons involved in the organization of a trafficking network between Senegal and Lebanon. Statistics pertaining to the trafficking of women in particular were not available but, more generally, in 2008, out of 100 cases of violence against women, 47 had not come to trial because of a lack of evidence.

57. The Government acknowledged shortcomings in its response to human trafficking. There was no reparation mechanism for victims and, under current legislation, financial compensation was payable by offenders, who were sometimes insolvent. There was a lack of victim support centres and of awareness among women of their rights. Moreover, no independent complaints mechanism had been established specifically for cases of human trafficking. The Government would take account of the many recommendations it had received in its efforts to address the situation.

58. In reply to other questions, he said that there were plans to amend the law governing the working conditions of domestic workers and that, in 2013, the Government had adopted a comprehensive national child protection strategy to complement existing measures aimed at eradicating child begging.

59. **Ms. Siby** (Senegal) said that parliament was discussing a bill to modernize Koranic schools (*daaras*), provide a framework for religious education and put an end to the exploitation of vulnerable children.

60. Prostitution was legal and regulated. Unregistered prostitutes were a danger not only to themselves but also to the wider population, which was why steps were being taken to refer them to sexual health clinics, where they could receive advice and, if necessary, appropriate treatment.

61. **Ms. Niang** (Senegal) said that vulnerable children were offered support by, among others, the Department for the Protection of Children's Rights and the Ginddi centre, which had set up a three-digit hotline for street children and victims of abuse. Child begging was an issue that transcended national borders and, as such, required a coordinated response at the subregional and regional levels. In Senegal, progress was being made in terms of awareness-raising, including with the help of marabouts, and the Government was open to seeking radical solutions in cooperation with international partners.

62. **Mr. Sene** (Senegal) said that most of the child beggars in Senegal were from neighbouring countries and that the Economic Community of West African States

(ECOWAS) as a whole had a responsibility to control the cross-border movement of persons. The fact that Senegal was a Muslim-majority country and that compulsory giving was one of the pillars of Islam made begging particularly effective and therefore harder to combat. Nevertheless, President Macky Sall was determined to eradicate the practice.

63. **Mr. Seye** (Senegal) said that, in 2011, only 10 cases of forced begging had been prosecuted, which suggested that the 2005 law prohibiting the practice was poorly enforced. There was, however, a strong political will to get children off the streets and into school.

64. **Ms. Pimentel** asked whether it was true that, in some cases of domestic violence against women, judges imposed suspended sentences on perpetrators in response to victims' requests for clemency. If so, the delegation should indicate whether the State party had considered alternatives to imprisonment as a means of ensuring that there was no impunity for domestic violence.

65. **Ms. Schulz** asked whether the State party had conducted a study on the effectiveness of regulations governing prostitution. Noting that the World Health Organization was opposed to mandatory HIV testing and counselling, she asked how many women were imprisoned in Senegal for the offence of soliciting or for failing to meet requirements for prostitutes, such as carrying a valid sanitary card and submitting to HIV testing twice a month. The delegation should indicate whether the regulation of prostitution had contributed to overcrowding in women's prisons and dissuaded prostitutes from registering with the police.

66. **Ms. Gabr** enquired about the role of the Ministry of Women, Children and Female Entrepreneurs in combating discriminatory practices and attitudes, and asked how the National Observatory on Parity performed its task of monitoring, evaluating and making proposals for promoting parity between men and women.

67. She invited the delegation to comment on the rising incidence of rape in Senegal, which was punishable by imprisonment of only 5 to 10 years under article 320 of the Criminal Code. The delegation should also provide statistics on female genital mutilation (FGM).

68. **Ms. Jahan** asked what agreements had been concluded at the subregional level to address the issue of child begging, what was being done to curb the growth of sex tourism and what specific measures were being taken to prevent trafficking in women.

69. **Mr. Seye** (Senegal) said that, in cases of domestic violence, judges were not permitted to hand down suspended sentences or grant pardons. Appeals for leniency from victims did not stop the judicial authorities from punishing perpetrators. Steps had been taken to raise awareness of domestic violence among all religious communities and school textbooks were being redrafted to remove gender stereotypes. A number of agreements on child begging had been concluded at the subregional level but had not yet proved effective.

70. **Ms. Siby** (Senegal) said that the leaders of ECOWAS countries had resolved to introduce regulations on child begging, and that foreign nationals found to be promoting the practice in Senegal could be deported. The prevalence rate of HIV/AIDS in Senegal was relatively low and prostitutes, many of whom came from disadvantaged backgrounds, did not feel stigmatized. The availability of regular testing allowed them to seek appropriate treatment whenever necessary.

71. **Ms. Niang** (Senegal) said that cultural and social factors dissuaded prostitutes from registering with the police more than regulations, which had enabled women to receive treatment for sexually transmitted infections. The Minister for Women, Children and Female Entrepreneurs sought to ensure that discrimination was not

tolerated and that victims of violence had access to support centres throughout the country. The Government had implemented a National Strategy for Gender Equity and Equality in the period 2005–2015 and was formulating a new strategy that would be at the heart of the Emerging Senegal Plan, thereby ensuring that gender equality policies were not marginalized.

72. **Ms. Thiam** (Senegal) said that, as national programmes to prevent female genital mutilation (FGM) were multisectoral, they were implemented by the Ministry of Women, Children and Female Entrepreneurs in close cooperation with other government ministries, civil society organizations, development partners and youth networks. Discussions were under way to set up a national council to coordinate existing regional policies on FGM. According to the 2014 Demographic and Health Survey, the FGM prevalence rate stood at 11 per cent for girls aged 0–4, 21 per cent for those aged 5–9 and 25 per cent for those aged 10–14.

73. **Mr. Sene** (Senegal) said that the National Observatory on Gender Parity played an important role in promoting equality within the National Assembly, as was evidenced by the adoption of a law in that regard in June 2015. Sex tourism was not at all encouraged and accounted for only a small proportion of all tourism in Senegal. During the peak season for seaside tourism, prostitutes from neighbouring countries exercised their right to freedom of movement within the ECOWAS region and flocked to coastal resorts in Senegal, but the police were on hand to maintain order and fight crime.

The meeting rose at 1 p.m.

United Nations CEDAW/C/SR.1308

Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women
Sixty-first session

Summary record (partial)* of the 1308th meeting
Held at the Palais des Nations, Geneva, on Tuesday, 7 July 2015, at 3 p.m.

Chairperson: Ms. Hayashi

Contents

Consideration of reports submitted by States parties under article 18 of the Convention (*continued*)

Combined third to seventh periodic reports of Senegal (continued)

* No summary record was prepared for the rest of the meeting.

This record is subject to correction.

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Any corrections to the records of the public meetings held during this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 18 of the Convention (*continued*)

Combined third to seventh periodic reports of Senegal (continued) (CEDAW/C/SEN/3-7; CEDAW/C/SEN/Q/3-7 and Add.1)

1. *At the invitation of the Chairperson the delegation of Senegal took places at the Committee table.*

Articles 7 to 9

2. **Ms. Leinarte** said that she commended the delegation on the fact that 43 per cent of the members of parliament were women, placing Senegal just behind Sweden in that regard, a situation that had occurred thanks to the adoption of a law on gender parity in electoral lists. National parliaments were the guardians of women's rights because their role was to represent the rights of all citizens; parliament's involvement in the implementation of the Convention was crucial. She would therefore welcome the inclusion of a female member of parliament in the State party's delegation during the next dialogue with the Committee. Noting that the gender parity law required male candidates to be alternated with female candidates on all electoral lists, she said that while such a "zebra-style" listing system had been effective during parliamentary elections, it was not implemented by political parties during elections to their own internal bodies. What measures was the Government taking to change lasting negative stereotypes regarding women's participation in political life? What special temporary measures had been introduced to ensure gender equality in all elections, including those of the governing bodies of political parties? Did rural women have the same opportunities to hold public office as urban women? Regarding women ambassadors, of whom there were seven, it would be useful to have official statistics on women's participation in decision-making and political life, the diplomatic service and the work of international organizations. Was such data collection mandatory? And was the compilation of statistics carried out routinely? There were no data on women in governmental positions or the judiciary. More detailed information was needed about concrete public assistance to women's non-governmental organizations (NGOs).

3. **Mr. Sene** (Senegal) said that rural women had the same opportunities to stand for election as urban women, because the lists were compiled in exactly the same way. There had also been parity in the electoral lists of all governing bodies at the time of the elections. The public authorities wanted women to be decision makers. Regarding the diplomatic service, in order to become a career diplomat it was necessary to pass a competitive examination at the National School of Administration and gain a diploma from that School. The examination did not take gender into account and simply tested a person's ability; moreover, it was possible that women were not interested in pursuing diplomatic careers. However, if women were interested and accepted by the National School of Administration, they could become members of the diplomatic service.

4. **Mr. Seye** (Senegal), referring to internal elections within political parties, said that the parties were private associations and therefore able to organize themselves as they wished. The possibility of the Government providing assistance to civil society organizations was under consideration. The Government supported that action and, in his view, such assistance would not compromise those organizations' independence.

5. **Ms. Toure** (Senegal), referring to the fact that women made up nearly half of the membership of the National Assembly, said that the Assembly played an important part in the implementation of the law on gender parity in elections. That law had first

been applied during the most recent legislative elections. Since the electoral lists were drawn up by the political parties, those parties also played an important role in the implementation of the law. However, the parties were dominated by men, who had considerable influence over the nomination of candidates. Consequently, the Government was endeavouring to raise awareness among female members of political parties, and for that reason a committee on follow-up of the implementation of the law had been established in partnership with civil society organizations. The committee membership included women from most political parties and from civil society organizations. The law on gender parity covered both rural and urban women. In local elections that had taken place in June 2014, the representation of women in local governing bodies had tripled, rising to 47.2 per cent, thanks to the implementation of the gender parity law. Civil society organizations were the State's strategic partners, and the Government was working to strengthen that partnership.

Articles 10 to 14

6. **Ms. Gbedemah** said that education was vital if the problem of child marriage was to be addressed and women were to take advantage of advisory services in negotiating their rights to land; it would also help women avoid onerous forms of work. Noting that vertical and horizontal segregation existed within the education system and that parity in the enrolment ratio of girls and boys did not extend beyond the primary school level of education, she asked whether the State party had tracked the girls who had not gone on to higher education to see what they did. Stressing that the illiteracy rate for women was 4 out of 10, as opposed to 6 out of 10 for men, with geographical variations, she asked how non-formal education had affected women's literacy. Noting that in rural areas 14.5 per cent of teachers were women, compared with 21 per cent in urban areas, she asked what incentives or temporary special measures beyond those described in paragraph 83 of the report were in place or envisaged to address the horizontal and vertical segregation.

7. Noting also that male students were more highly represented than female students in the sciences and in management studies and in both technical and university education, she asked what temporary special measures were envisaged to bridge the gender gap in technical and other higher education, increase access to education in rural areas and train more women teachers. She would appreciate it if the delegation could provide disaggregated data on scholarships. Noting that there was violence against girls in schools, with corporal punishment still being practised, and that the dropout rate for girls was very high, partly due to teenage pregnancies, she asked whether there were statistics on girls who had returned to school and the subjects they had studied and what measures had been taken to ensure that, once back in school, they continued their previous course of study. She asked how many people had been punished for sexual harassment, which was a problem in the educational system, and whether there were policies or guidelines in place. Regarding inclusive education and children with disabilities, she asked whether teachers were trained to provide inclusive education with equal opportunities and whether that was tested as part of their in-service training.

8. **Ms. Patten**, referring to the continuing gender disparity in employment opportunities, asked whether the Government was rethinking its employment policies in order to integrate a gender perspective and to what extent it was promoting an active and visible policy of mainstreaming a gender perspective in all policies and programmes. What employment creation strategies were being developed? What efforts were being undertaken to promote the access of women to occupations and sectors that were traditionally reserved for men? Were there any specific legal provisions on sexual harassment in the workplace in the Labour Code or other legislation, and was there a broad definition of sexual harassment in the workplace in

line with international norms? If not, were there plans to introduce relevant legal provisions? Noting that the Government had ratified the International Labour Organization (ILO) Equal Remuneration Convention, 1951 (No. 100) and ILO Holidays with Pay (Agriculture) Convention, 1952 (No. 101), she expressed concern that gender wage differentials were present in all occupations and across all skill bases. How was the Government addressing pay gaps in both the public and private sectors? Could the delegation clarify the sentence in paragraph 125 of the Government's replies concerning access to public service employment and equality in the area of taxation (*égalité fiscale*); how had the Government linked taxes and pay gaps? Noting that in the State party report reference was made to provisions of the Labour Code concerning collective agreements, she said that the principle of equal remuneration for work of equal value was not provided for in the legislation of Senegal and asked whether there were plans to review the Labour Code in order to give full effect to that principle. Referring to reports from alternative sources that the Government had been developing a bill on non-discrimination at work that would incorporate the principle of equal remuneration for work of equal value, she asked for information on the status of that bill and whether it would lead to amendments to articles 86 and 105 of the Labour Code. Noting that women victims of employment discrimination could not always bring their case to court for reasons relating to their disadvantaged social position, lack of access to legal assistance, or fear of reprisals, she asked what measures were in place to address the difficulties faced by women in speaking out and obtaining redress in courts and whether judges and lawyers were receiving training on the Convention and international labour standards. To what extent was the potential for the labour inspectorate to deal with issues of gender discrimination being used and to what extent was the inspectorate monitoring and enforcing compliance with the Labour Code?

9. Noting that paragraph 88 of the State party report mentioned that further efforts were needed with regard to women and girl domestic workers, she asked what those further efforts were, whether there were legal provisions to regulate domestic work, and to what extent the Government was committed to protecting domestic workers; was it considering ratifying the ILO Domestic Workers Convention, 2011 (No. 189)? She noted with concern the reports of the persistence of child labour, which affected many girls, and asked what the Government was doing to tackle the practice and to get the children off the streets.

10. **Ms. Chalal**, said that despite action taken to promote the health of women and children, indicators regarding health coverage were very divergent from standards previously set in the National Health Development Plan for the period 1997–2007. The table on health coverage indicated a shortage of nurses and State-employed midwives; it showed that there had been one nurse for every 4,687 inhabitants in 1994, and one for every 4,183 inhabitants in 2008. What specific measures were envisaged to reduce that shortage? Was there a plan for increasing the number of medical personnel together with indicators regarding follow-up?

11. Noting the persistence of high maternal mortality rates, which, at 4,010 deaths per 100,000 live births, would not enable the State to achieve the Millennium Development Goal of 127 deaths per 100,000 live births, she asked what financial resources were allocated to the training of paramedical personnel and to health care as a whole. She asked whether the State party intended to legalize abortion in cases of rape, incest or severe foetal impairment. What was the prevalence of unsafe abortion, broken down by region and by social and economic status? What influence did those abortions have on the mortality rate? How many women were sentenced for having had an abortion that had been judged illegal and how long were the sentences? Noting the high rates of women infected with HIV/AIDS and the increasing number of women with the disease, she asked what were the reasons for that trend. Did the

Government intend to increase the number of awareness-raising campaigns about the disease and involve all stakeholders, including the media? Access to sexual and reproductive health care was insufficient because of the high cost of care and women's lack of knowledge about ways of controlling their right to reproduce. What measures were being taken to provide those concerned with appropriate training, particularly rural women?

12. **Mr. Seye** (Senegal) said that the State party report had been exhaustive on the subject of article 10 and had described in detail the efforts made with regard to girls in education. A circular that called for the expulsion from school of pregnant girls had been cancelled and considerable follow-up efforts had been made to ensure that such girls were able to go back to school or to receive vocational training. All students were eligible for scholarships; excellence was the criterion according to which they were awarded. Many efforts were being made to increase the percentage of women and girls in full-time education. He agreed that statistics were lacking in certain areas, despite the existence of a National Statistics and Demographics Agency. Regarding the incidence of girls being raped in schools, over and above the provisions of the Criminal Code, much awareness-raising directed at parents and teachers was taking place, so that it was almost impossible for teachers to escape punishment for the offence. A national report on disabilities contained data on inclusive education, which he would be pleased to share with the Committee.

13. **Ms. Wade** (Senegal) said that salaried women workers had been taxed on their salary on the same basis as men since 2008. The only difference was that women had to submit appropriate documentation to the Ministry of Finance in order to justify their status. The Ministry of Women, Children and Female Entrepreneurs saw that equal tax treatment as a positive step towards equality between women and men workers but would try to have women released from the additional requirement of having to provide documentation. That Ministry, supported by ILO, was also collaborating with the Government in its reforms of employment policy with a view to eliminating provisions that were discriminatory against women.

14. As for the situation of domestic workers, she said that her Ministry was cooperating with civil society organizations and trade unions to influence Government policy toward those workers. She hoped that Senegal would soon ratify the ILO Convention No. 189.

15. **Mr. Sene** (Senegal) said that the sole criterion for employment in the civil service was to have passed the competitive recruitment examination. Once hired there was no difference in salary or treatment between men and women. The only factor affecting a civil servant's career was merit, which, coupled with the fact that civil servants were permanent employees, meant that civil servants were not subject to harassment or intimidation.

16. **Ms. Sibi** (Senegal) said that Senegal had been an early adopter of policies to help persons with disabilities, including with regard to their right to work. It had for example established a school for the visually impaired, the graduates of which functioned as well as anyone in their respective jobs. A law adopted recently instituted a quota for candidates sitting recruitment examinations with disabilities. The community of persons with disabilities was well organized and worked diligently to assert their rights.

17. The law and the Constitution prohibited discrimination between men and women. There had been much progress in the situation of women and there were even high-ranking women officers in the armed forces and the gendarmerie. In the judiciary women and men judges of the same rank and qualifications received exactly the same salary. With regard to domestic labour, she said that domestic workers, like any other

group of workers, had to organize and increase awareness of their rights. That work had begun and her Government assisted in organizing information sessions in that regard. Women in Senegal had always been active in demanding their rights and must continue to do so, because their Government was ready to listen.

18. Women had free access to the justice system to redress violations of their rights. Many women lawyers and judges were leaders in defending women's rights and assisting women victims of violence or human rights violations in lodging complaints. The Government's promotion of more accessible justice, based on the community justice centres, provided women with a cost-free option for resolution of a complaint at the local level. She underscored that harassment was a crime but could be difficult to prove in court. Unfortunately, women often had difficulty providing sufficient evidence to justify their claim of harassment and charges were dropped as a result.

19. **Mr. Sene** (Senegal) said that one of the priorities of the Emerging Senegal Plan was to promote the agricultural sector with a view to achieving food self-sufficiency; most job creation would therefore be in that sector. With regard to improving maternal health, he said that 500 nurses and midwives had recently been hired. While Senegal did not have many hospitals that provided secondary or tertiary care, health facilities that offered primary care were widely available across the country. The fact that Senegal had escaped the recent Ebola epidemic was a sign that the health-care system was effective.

20. **Ms. Ba** (Senegal) said that the number of maternal deaths per 100,000 births was dropping and currently stood at 392. In order to address the shortcomings of the health-care system the Ministry of Health had launched a human resources development plan; in 2014, 1,000 new health-care workers, including 500 midwives, had been recruited, and 1,000 more workers, in particular specialists and nurses, would be recruited in 2015. Her Government intended to ensure that each region had a hospital that offered secondary care, and specialized centres for cancer management, kidney transplants and maternal health would be established in the capital and the regions. University-level health training institutes would be established in the regions to train medical and paramedical personnel.

21. She said that staffing problems could be explained in part by the fact that health-care workers could sometimes get better pay and conditions in the private sector. Her Government was, committed however, to making the public system an attractive alternative, with a view to guaranteeing universal access to care at an affordable price. Women's lack of information about their health issues and about the services available to them was a factor that negatively affected their access to health care. That underscored the important role the many community-based health initiatives played in informing women about their health issues, organizing regular medical visits and encouraging testing and screening programmes, which contributed greatly to prevention and early detection.

22. The overall HIV/AIDS rate in Senegal was relatively low, at 0.7 per cent. Nevertheless, while 10 years before twice as many men as women were infected, currently that ratio had been reversed. That reversal could be explained by the fact that women were physiologically more susceptible to infection. Furthermore, for economic and societal reasons, the man was often the dominant partner, making it difficult for the woman to insist on safe sex. Her Government was working to change that situation.

23. Women were imprisoned for having an illegal abortion, because they were considered to be guilty of infanticide. She would provide statistics to the Committee on the number of women hospitalized as a result of complications following an illegal abortion and she stressed that post-abortion care was available to all women. There

were estimated to be over 51,000 abortions every year in Senegal, or 17 for every 1,000 women of reproductive age. Efforts were under way to encourage safe abortions, promote the use of contraception and provide family planning services. Contraception use had increased from 12 to 20 per cent of women in the past 2 years and should reach 25 per cent by the end of 2015. Discussions were under way regarding a bill on abortion to be submitted to the National Assembly that would reflect the provisions of article 14 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) relating to abortion in cases involving rape or incest, risk to the mother's health or foetal impairment.

24. Great progress had been made in training women health-care professionals. Currently half of graduating doctors and dentists were women and the proportion of women in the health-care field continued to grow. That increase was not a result of women being directed towards fields typically considered to be for women; women were free to train for any type of job, be it welding, auto mechanics or health care. The goal of the Emerging Senegal Plan was to ensure that men and women played equal roles in the development of the nation.

25. **Ms. Gbedemah** recalled that the purpose of the Convention was to ensure full equality between men and women; if women represented approximately 50 per cent of the population that should be reflected in the educational system. Women were well represented at the lower levels but their participation rate dropped considerably in the higher education sector; for example only 23.1 per cent of university graduates in agriculture were women. The report also indicated that 90 per cent of students in the professional, industrial and technical fields were boys. She wondered what measures were envisaged to ensure full equality for women at all levels and in all fields and would appreciate information on the results of any measures already adopted.

26. **Ms. Patten** said that she was concerned at provisions of the law that constituted discrimination against women, for example those listed in paragraph 12 of the list of issues. She also had information that at one time a woman who had a dependent child could not become a civil servant. Such provisions hindered the economic empowerment of women and she asked whether the State party intended to repeal or amend such measures to ensure equal treatment for women.

27. **Mr. Seye** (Senegal) said that women were underrepresented in tertiary education because of such factors as gender stereotyping, early marriage or pregnancy and their early entry into the domestic labour sector. Progress was being made, however: girls were encouraged to stay in school, including after pregnancy; bursaries and prizes were available for girl students in the sciences; a leadership programme had been established for girl science students; and his Government planned to raise the legal age for marriage to 18. The elimination of problems and imbalances at the basic level should translate into more equal participation by women at the higher levels of the educational system and in all fields of study.

28. **Ms. Ba** (Senegal) said that young people and adolescents had access to a number of programmes to inform them about health care, including sexual and reproductive health and family planning. The Ministry of Education provided health-care information as part of the school curriculum and the Ministry of Youth and Promotion of Civic Values also provided information through its centres for adolescents. The Ministry of Health likewise contributed to health-care education efforts directed at young people.

29. **Ms. Niang** (Senegal) added that intermediate level schools offered courses in sexual and reproductive health. The Ministry of Women, Children and Female Entrepreneurs also worked to disseminate health-care information. She noted that

cultural norms were often a barrier to discussion of sexual and reproductive health but her Government was making every effort to implement the Committee's recommendations.

30. **Mr. Sene** (Senegal), in response to Ms. Patten, said that there was no ban on a woman with a dependent child entering the civil service; the only criteria were education and merit.

31. **Ms. Pomeranzi** said that, despite the legal framework in place and the institutional measures introduced, women in many parts of Senegal continued to face obstacles and discrimination in respect of access to credit and land tenure. For example, customary law in some cases prevented women from inheriting land and allowed husbands to stop their wives from acquiring it. She wished to know what strategies were being adopted to address this worrying situation, which was particularly acute in rural areas. She would also be interested to know how many women had been provided with access to credit and employment assistance under the Integrated Economic and Social Development Programme and other funds and initiatives and how the Government evaluated the effectiveness of such social programmes.

32. **Ms. Gabr** said that she welcomed the outcome of the recent local elections, which had shown an increase in women's participation and empowerment in the electoral process. She would be grateful for further information on the social services provided to women, particularly in terms of housing, sanitation and drinking water. She would be interested to know what percentage of the national budget for education and health were earmarked for rural women. She wished to know what steps were being taken to overcome the difficulties faced by women, in particular small farmers in rural areas, in becoming landowners. She also asked how the Government was dealing with the problem of land grabs by major agricultural multinationals, which had a particular impact on women. She said that the delegation should comment further on the inheritance laws and what was being done to ensure that women fully enjoyed the right to inherit property, noting that there were many Muslim countries where sharia law did not apply in personal status matters such as inheritance. She would welcome information on the number of women with disabilities in the country and what measures were being taken to help them, the number of women in prison and their conditions of detention and the situation of older women.

33. **Mr. Seye** (Senegal) said that, although constitutional and legislative provisions established the principle of gender equality in landownership, it was true that women continued to face real problems in practice because of customary rules that prevented them from inheriting land. In addition, they lacked the financial resources necessary to fulfil the legislative requirement of making productive use of the land. In order to remedy this situation, the President had recently established a committee, headed by an eminent scholar, to develop proposals on reforms to the land law, which dated back to 1963. The committee was due to submit its conclusions shortly and was addressing all of the concerns raised by the Committee members.

34. **Ms. Niang** (Senegal) said that, under the Emerging Senegal Plan, great importance was attached to economic growth created by all citizens, both men and women. A range of mechanisms was in place to enable men and women to access resources and basic services. However, traditional practices that hindered women's landownership persisted; the degree of difficulty in accessing land varied depending on the region. Women had voiced their opinions and now eagerly awaited the recommendations of the committee on land reform.

35. **Mr. Seye** (Senegal) said that the agricultural land policy, under which community farms were created, took account of the particular problems faced by women and aimed to maximize the number of women who owned land.

36. **Mr. Sene** (Senegal) said that representatives of the ministry responsible for microfinance travelled around the country to provide funding to women who had set up their own development projects, such as handicraft businesses. Remittances from the diaspora in the amount of CFAF 3 billion were also used to finance women's projects.

37. **Ms. Niang** (Senegal) said that a number of special funds had been set up to extend the level of credit available to women, including the National Women's Credit Fund, the National Fund for the Promotion of Female Entrepreneurship, the Microfinance Promotion Fund and a new fund specifically for women in rural areas.

38. **Ms. Siby** (Senegal) said that there were concerns with regard to the fact that women only received social benefits when their husbands were not working. However, women had included that issue among the demands made on International Workers' Day and it would be addressed as the country's ongoing societal changes continued. Female prisoners had special quarters, were allowed to choose and cook their own food and regularly received personal items. Some 27 women were in prison for abortion.

Articles 15 and 16

39. **Ms. Halperin-Kaddari** said that, since such provisions as a husband's prerogative to prevent his wife from practising a separate profession had been revoked, the State party appeared to be of the view that women in Senegal, including married women, enjoyed full legal capacity and complete equality under the law. However, the State party report itself recognized that the term "marital power" still applied under the Family Code. It could thus not be said that article 15 of the Convention was being implemented because there was still such formal discrimination against women. She wondered whether the Government was planning to revoke the relevant provisions.

40. It was regrettable that, although the State party report referred to the existence of civil, religious and customary laws, it gave no explanation of the actual normative framework governing the family. She wished to know what proportion of marriages were unregistered and how discriminatory customary laws, such as levirate marriage, were being addressed. Recalling the Government's responsibility to ensure that all marriages were registered so that all married women's rights were safeguarded, she drew attention to the Committee's general comment No. 29 in that regard.

41. There was no justification for maintaining the traditional practice of polygamy. Information was needed on the scale of the phenomenon, which appeared to be widely accepted. The reference to women's free choice when opting for polygamy was, in her view, an oxymoron. Polygamy was forced on women and could not be presented as a free choice. She was concerned that the dowry system (régime dotal) and community of property regime were the prerogative of men who chose monogamous marriages. She asked how the Government ensured that young women were able to make informed decisions about marital property regimes prior to marriage. The dowry system was discriminatory by definition, as it was only the husband who had administrative powers over the wife's endowed assets, and never the other way around.

42. She was also concerned at the alarming rate of child marriage in Senegal and the fact that, although the legal marriage age for women was 16, under the Criminal Code only marriage of girls under the age of 13 was a criminal offence punishable by a

prison term. She wondered how the State party intended to eradicate the practice both in law and in practice. The rules on inheritance, under which only males could inherit the entire estate, appeared to be the only direct reference to Islamic law that had been formally incorporated into the Civil Code. She wondered why the most restrictive and discriminatory interpretation of Islamic law had been chosen and whether there were any plans to change it. With regard to child custody, noting that the law provided only for paternal authority, she asked what happened in reality when parents separated or divorced.

43. **Mr. Sene** (Senegal) said that it must be borne in mind that the population of Senegal was 95 per cent Muslim. When a couple was being married, the civil registrar gave both parties the option of choosing either a polygamous or monogamous marital regime. The wife was not obliged to sign the contract if she did not agree with the option of polygamy. Once the couple had opted for polygamy, it was no longer possible to apply a shared property regime, as the husband could not leave his property to just one wife if he had three or four wives. With regard to child marriage, a bill was being drafted to raise the legal marriage age for women to 18. Customary marriage continued to be practised largely in rural areas where a large proportion of the population was illiterate, and it would take time for mindsets to change.

44. **Ms. Siby** (Senegal) said that, although it persisted in many areas, customary law did not have legal effect and there were no customary courts in Senegal. All issues related to the family were governed by civil law, such as the Civil Code and Family Code. Women were not forced to enter into polygamous marriages and had the option of refusing to marry if they objected. However, it was true that women in rural and urban areas did not necessarily have the same capacity of discernment, and in rural areas many women did not see polygamy as a problem. Such deep-rooted traditions survived but Senegalese society was gradually evolving.

45. **Ms. Niang** (Senegal) said that, under Senegalese law, the number of wives permitted in a polygamous marriage was defined at the outset and could not subsequently be increased, even if the husband divorced or was widowed. Similarly, if a man opted for monogamy in his first marriage he could not request polygamy for a subsequent marriage. Efforts were being made to progressively change mentalities, and it was hoped that polygamy would gradually die out. Debate on the issue must involve both men and women.

46. **The Chairperson** thanked the delegation for the constructive dialogue, which had provided further insights into the situation of women in Senegal. She commended the State party on its efforts to date and encouraged it to take all of the necessary measures to act on the Committee's recommendations and ensure more comprehensive implementation of the Convention.

47. **Mr. Sene** (Senegal) thanked the Committee for its interest in the women and girls of Senegal and for its constructive comments. More than ever, Senegal was committed to pursuing its efforts to protect and support women and ensure that they were real actors in the country's developments.

The discussion covered in the summary record ended at 5.05 p.m.

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Committee on the Elimination of Discrimination against Women
Sixty-first session

Summary record of the 1309th meeting
Held at the Palais des Nations, Geneva, on Wednesday, 8 July 2015, at 10 a.m.

Chairperson: Ms. Hayashi

Contents

Consideration of reports submitted by States parties under article 18 of the Convention (*continued*)

Combined seventh and eighth periodic reports of Spain (continued)

This record is subject to correction.

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The meeting was called to order at 10 a.m.

Consideration of reports submitted by States parties under article 18 of the Convention (*continued*)

Combined seventh and eighth periodic reports of Spain (CEDAW/C/ESP/7-8; CEDAW/C/ESP/Q/7-8 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Spain took places at the Committee table.*

2. **Ms. Menéndez** (Spain), reviewing developments in Spain since July 2009, when it had submitted its sixth periodic report, said that as Spain emerged from the recent economic crisis, it was able to commit fully to ensuring equality of opportunity for men and women. For example, the 2015 budget of the Institute for Women and Equal Opportunities was nearly 8 per cent higher than the previous year's budget. The National Plan of Action for Social Inclusion 2013–2016, which had been developed in consideration of the disadvantaged situation of many women, provided for measures targeting women who were subjected to multiple forms of discrimination. Programmes targeting migrant and Roma women had been strengthened. The primary objectives of the recently adopted Strategic Plan on Equal Opportunities 2014–2016 were to reduce inequality in the areas of employment and the economy, promote shared responsibility in personal, family and work-related life and eradicate gender-based violence.

3. As part of its institutional reconfiguration, the Institute for Women and Equal Opportunities was the body responsible for championing the participation of women in all facets of Spanish social life. The reconfiguration enabled the institute to pursue its objectives in a more harmonized fashion and to take a holistic approach to addressing such phenomena as multidimensional discrimination. In a first for the institute, it had recently joined a consumers' association as a party to a suit against Ryanair for sexist advertising.

4. Noteworthy developments in the area of employment and social security included the enactment of a law revising part-time workers' means of access to social security benefits and the recent publication of the European Institute for Gender Equality's Gender Equality Index 2015, on which the country's index of 53.6 placed it just above the European Union average. In matters related to work and employment, however, Spain was below the average, and for that reason it intended to adopt a special plan to promote equality between men and women in employment-related areas.

5. The Government was also committed to combating stereotypes, particularly in the media and in schools. The Official Institute of Radio and Television had cooperated with the Institute of Women's virtual school to provide training on equality to radio and television personnel. Brief reports on equality issues were broadcast weekly on national radio. Other recent developments included the adoption in February 2015 of a code of good governance, which called on publicly listed companies to ensure that women accounted for at least 30 per cent of all their board members by 2020, and the formulation of a plan to promote the advancement of women in rural areas.

6. Fewer women had been killed by their partners or former partners in 2012, 2013 and 2014 than in any other year since 2003, when records on gender-based violence had begun. Figures from March 2014 showed that the number of complaints of gender-based violence had risen for the first time since 2008, and a related hotline, which offered legal advice, had received considerably more calls in 2014 than in 2013. Collecting data was a priority for the Government. The most recent survey on violence against women had been taken in March 2015 and had included a set of questions on

the prevalence of physical and sexual violence inflicted on women by persons other than their partners. A recent poll had shown that Spanish society considered gender violence unacceptable; nearly 90 per cent of respondents had reported that they knew where to submit a complaint for abuse.

7. Appropriations to the Government Office on Gender-based Violence had increased by 7 per cent in 2015. The State had been allocating approximately €320 million a year to combating gender-based violence. Improvements to the National Strategy for the Eradication of Violence against Women (2013–2016) included the recent adoption of a protocol on referring women victims of gender-based violence and their children to shelters, awareness-raising campaigns, the provision of information to hotline callers in such languages as Tamazight, widely spoken in Ceuta and Melilla, and the production of a study on female genital mutilation in Spain.

8. Organic Act No. 1/2015 had amended the Criminal Code in such a way as to facilitate efforts to combat gender-based violence. Efforts to combat trafficking for the purposes of sexual exploitation had been bolstered by the appointment of a national rapporteur on trafficking in human beings, increases in the subsidies for programmes providing assistance to female trafficking victims, the entry into force of an act providing for assistance to trafficking victims, bills on reforming the child protection system, the development of a relevant plan and the recent implementation of phase two of the National Plan on Law Enforcement Efforts to Combat Trafficking.

Articles 1 to 6

9. **Ms. Arocha Domínguez** said that she would appreciate additional information on what agencies had participated in the production of the State party's report and how the drafting of the report was coordinated. She was especially interested in knowing whether NGOs had taken part. She also requested an additional explanation of the reason for the State party's continued unwillingness to withdraw its declaration to the effect that the provisions of the Convention did not apply to the rules of succession to the Spanish Crown.

10. **Ms. Pimentel** said that she wished to know how the State party viewed its lack of a comprehensive legal instrument to combat violence against women committed by persons other than partners or former partners. She wondered whether the State party was fully aware of the consequences of the changes to the Institute of Women's remit. She requested information on the strategies deployed by the authorities to ensure that laws and policies on equality were implemented in a harmonized fashion throughout the country. Lastly, she asked to what extent reports of a downward trend in the numbers of women who exercised their right to have recourse to the justice system could be attributed to a failure to train judicial officials appropriately or to the system's inaccessibility to women from more vulnerable or isolated population groups.

11. **Mr. Bruun** said that the Committee was disappointed to find that the State party's report had not more fully addressed the effects on women of the economic crisis that had begun in 2008. Research had shown that since mid-2011, women had faced large increases in unemployment, services had been cut and recovery programmes had focused on sectors dominated by men. In that context, he wondered how the Spanish authorities could explain their blindness to the differing effects of the crisis on men and women and why they did not put pressure on the European Union to take a gender-mainstreaming approach to measures designed to address the global financial and economic crisis. Were the authorities finally ready to evaluate the impact of the crisis on women?

12. The State party's unwillingness to provide compensation to Ms. Ángela Gonzáles Carreño, author of communication No. 47/2012, despite the Committee's finding that it should do so, had surprised the Committee. He urged the Spanish authorities to reconsider their position and said that he would appreciate an additional explanation of the reasons for their stance. He commended Spain on Act No. 12/2009, on the right to asylum and subsidiary protection, but wished to how the authorities ensured that its admirable provisions were actually implemented. Information about how the Government ensured that the Convention applied to domestic non-State actors operating extraterritorially would also be welcome.

13. **Ms. Schulz** said that it appeared that the situation of the Spanish machinery for the advancement of women had changed greatly since the submission of the State party's combined seventh and eighth periodic reports. Budgets appeared to have been cut so drastically that she wondered whether there were any activities left to coordinate. As the end date for nearly every gender equality strategy referred to in the reports was 2016, she asked what was planned for the future, whether relevant discussions were under way and whether there were any indicators of the resources to be made available for future strategies and plans.

14. She wished to know the reasons for the institutional changes that had led to the Institute of Women's assumption of the responsibilities for the equality policies previously overseen by the dissolved Directorate General for Equal Opportunities. She wondered whether the independence of the Institute of Women did not weaken the country's gender equality mechanism by placing it at one remove from the Government and whether the impact of the institutional changes had been assessed. It would be interesting to know whether the authorities were considering reversing those changes, how they ensured that gender issues were not addressed in isolation and how often the institute had participated in proceedings before the courts. Information on whether women had recourse to the Ombudsman's Office to defend their right to equality would likewise be welcome.

15. She requested additional information on the coordination of gender equality measures at national and regional level, the extent and impact of budget cuts, in particular in the Autonomous Communities, and the impact of Act No. 27/2013, which reallocated responsibility for gender equality policies away from local authorities. Lastly, she requested comment on reports of dissatisfaction with the Council on Women's Participation and updated information on the delivery of overseas aid.

16. **Ms. Hofmeister** said that, pursuant to the Convention and general recommendation No. 25, States parties were required to implement temporary special measures in order to accelerate de facto equality between men and women, such as through the introduction of statutory quotas in both private and public sectors where women were underrepresented. The report submitted by Spain did not provide sufficient information on whether such legally binding quotas were enforced in the country, on any other examples of temporary special measures and good practice being implemented, and on assessments that had been carried out regarding the achievement of de facto equality of men and women through temporary special measures in Spain.

17. **Ms. Salomón** (Spain) said that responsibility for drafting the State party report lay with the Ministry of Foreign Affairs and Cooperation, and more specifically, with the Ministry's human rights office. Contributions were received from all competent ministries over the course of a year, during which autonomous communities and relevant civil society organizations were also consulted. The contributions were compiled by the human rights office which was responsible for drafting the final report, after having taken into consideration the comments provided by civil society organizations on the initial draft reports.

18. **Ms. Urbón Izquierdo** (Spain) said that the economic crisis had indeed worsened the labour market for women in terms of job security and breaking through the glass ceiling. However, the 2013–2016 Strategic Plan on Equal Opportunities sought to include women more significantly in the labour market, and to help them reconcile their home and work life and eradicate gender-based violence. Work was also being carried out with the Ministry of Employment and Social Security to draft another plan focusing on ensuring equal opportunities in employment and on combating the wage gap. Compared to the previous year, unemployment among women had slightly fallen. Moreover, the Institute of Women made an important contribution to ensuring that cross-cutting gender issues were addressed, helping women to develop necessary skills, and mainstreaming the notion of equal opportunities.

19. With regard to quotas, the Code of Good Governance for Listed Companies was intended to ensure that women accounted for 30 per cent of the boards of directors of listed companies by 2020. Agreements had also been signed with more than 150 large companies to increase the participation of women in their governing boards. Training programmes for female directors were available, as were projects conducted in cooperation with employers to train promising women through a mentoring system, all of which had produced positive results. The Government had also worked with employers in the agricultural sector to increase the participation of women in that field.

20. **Ms. Ortega Sanz** (Spain) said that the implementation of Spain's Strategic Plan on Equal Opportunities would be followed up and monitored. A system of indicators would be approved by all relevant ministry departments and a working process had already been established which involved collecting data on steps taken to comply with the strategic plan and monitoring the contribution to the promotion of gender equality made by all stakeholders. Two reports would be produced in that regard, the first in 2015 and the second at the end of the period of implementation of the strategic plan. Preliminary data already seemed to suggest that implementation was on track.

21. **Mr. García Jiménez** (Spain) said that the Government was in permanent dialogue with the Autonomous Communities through, for example, the annual sector conference on equality, virtual meetings, and the State Gender Observatory which produced an annual report on gender issues across all federal and autonomous government departments. Organic Act No. 1/2004 on integral protection measures against gender violence (LOVG) addressed the issue of standard-setting in respect of gender-based violence, and any reform of that law should focus on achieving a standardized approach to combating gender-based violence. The National Strategy for the Eradication of Violence against Women (2013–2016) had been established to further promote the protection of women. Furthermore, the Autonomous Communities had a number of legal instruments available to them to tackle a variety of issues, including domestic violence, female genital mutilation, sexual assault and forced marriage.

22. Turning to the impact of the economic crisis on women, he said that 70 per cent of the State's budget on gender-based violence during the crisis had been spent on victim support services, such as the establishment of hotlines and shelters. Despite a reduction in the overall budget, there had been no cuts in support or protection for victims of gender-based violence. Campaigns had been launched by civil society organizations and public and private enterprises to ensure that such services remained available to victims, and awareness-raising activities continued to be funded through extrabudgetary resources.

23. The Autonomous Communities were legally required to contribute to the implementation of Organic Act No. 1/2004, and they were also involved in producing a report reviewing the harmonization of the Act at the autonomous community level.

Measures would be adopted to harmonize autonomous community legislation with State legislation and there were several examples of coordination mechanisms in place, such as the establishment by the Government of a national network of shelter houses and virtual coordination groups to encourage cooperation between autonomous communities. Harmonization of local legislation was another important aspect and the State provided medium- to long-term funding for local communities in their endeavours to combat gender-based violence.

24. **Ms. Ruiz Bautista** (Spain) said that a national plan of action for social inclusion was currently being implemented and evaluated. It focused on ensuring equal opportunities in the workplace, reducing the wage gap between men and women, and guaranteeing equal access to services. It also encompassed a series of measures for the most vulnerable groups of women, including Roma and women with disabilities. Moreover, the national plan of action addressed the issue of child poverty and had a specific budget dedicated to providing assistance to the most vulnerable families. In the wake of the economic crisis, the budget for combating child and female poverty had increased. Finally, recent data indicated that social exclusion and poverty among women had decreased, marking a reverse in the trend of previous years.

25. **Mr. Viada** (Spain) said that discrimination would not be an issue under new inheritance laws because the Constitution stipulated that there must be no discrimination on the basis of sex in new legislation. However, in respect of succession to the Crown, article 56 of the Constitution did provide for the preference of men over women, but it was the right of the State to maintain any reservations pertaining to its own Constitution, tradition and history. Such a decision did not contravene any international instrument.

26. **Ms. Martín Nájera** (Spain), referring to the reduction in the number of complaints lodged in respect of gender-based violence, said that the figure had decreased between 2009 and 2013 but had increased once again in 2014. While the fluctuation in itself was not important, the cause for concern was that the number of complaints had remained fairly stable, whereas the Government had expected an increase in awareness of the need to report gender-based violence and a reduction in reported cases as a result of a decrease in the perpetration of such crimes. The Office of the Attorney General had a specialized remit for gender-based violence pursuant to Organic Act No. 1/2004. Every year, public prosecutors convened to discuss the most topical issues and then delivered feedback from that meeting to their local directorates while supervising and monitoring the work of the latter in the field of gender-based violence. There had been a significant increase in the number of courts specialized in gender-based violence and the number of lawyers competent in the same field. Moreover, judges presiding over such courts were required to undergo specialized training.

27. **Mr. Zurita Bayona** (Spain) said that national legislation provided for the strengthening of inter-institutional coordination in the prevention of violence against women. An important step forward in that respect had been the introduction, in 2007, of the System for Comprehensive Monitoring of Cases of Gender-based Violence, which was a pioneering initiative aimed at establishing an extensive network of police officers, judges, prosecutors, prison staff and other professionals responsible for the protection and security of victims of gender-based violence.

28. As at 31 May 2015, more than 370,000 cases had been recorded in the system, of which 51,000 were considered active, and more than 2 million assessments had been carried out to determine the risk of victims being subjected to violence again. The Government encouraged the Committee and civil society organizations to familiarize themselves with the system and to make recommendations for improvements.

29. **Mr. González Pacheco** (Spain) said that, pursuant to the 2009 Asylum Act, applicants were invited to attend an interview and had the right of appeal. The fact that asylum had, on several occasions, been granted on the basis of gender-based persecution was proof that the Act was implemented in practice.

30. **Mr. Rodríguez-Salmones** (Spain) said that, in terms of employment, the global financial crisis had affected Spanish men more than women. Of the 3.2 million jobs lost between 2007 and 2015, 80 per cent had been held by men. That figure was unsurprising given that many losses had been suffered in the construction industry and in low-skilled sectors of the economy, where men outnumbered women. As a result of job cuts, the percentage of women in the workforce had risen from 42 per cent in 2008 to 47 per cent in 2015.

31. **Ms. de la Concha Renero** (Spain) said that, to mitigate the effects of the financial crisis, the Government had offered incentives such as rebates and reductions in social security contributions, including through Royal Decree-Law No. 1/2015. One of the key aims of the financial incentives, which were available to employers and self-employed workers, was to encourage the long-term hiring of women, particularly in sectors in which they were underrepresented. Rebates were more generous if the women recruited had disabilities or were victims of domestic or gender-based violence and, for the latter group, the period of entitlement to financial incentives was extended from three years to four.

32. Self-employed women were eligible for rebates up to the age of 35, while for men, the limit was set at 30. Moreover, self-employed women who were victims of domestic or gender-based violence were exempt from social security taxes for a period of up to six months. The financial incentives also applied to domestic work, including temporary contracts in cases where the substituted employee was a victim of gender-based violence, on leave to care for relatives, on maternity leave or breastfeeding. To date, more than 24,000 women had received rebates and around 174,000 had benefited from reductions.

33. Women victims of gender-based violence were entitled to social security coverage throughout any periods of recovery and those who were divorced or separated were eligible for a widow's pension regardless of whether they were already receiving alimony payments. Persons convicted of the first-degree murder of their partner for reasons of gender were stripped of their right to a widow's pension and, where appropriate, the money was instead given to the victim's children.

34. **Mr. Bruun** asked how many asylum requests had been granted on the basis of gender-based persecution and noted that his question on the case of *González Carreño v. Spain* had not been answered. He invited the delegation to explain what was done to educate and inform people about the Convention and its Optional Protocol in the State party.

35. **Ms. Schulz** said that she had not received replies to her questions on the role of the Council on Women's Participation and on the steps taken by the Ombudsman's Office to promote gender equality. According to alternative sources, most of the international development cooperation plans and programmes outlined in paragraphs 25 to 31 of the State party report (CEDAW/C/ESP/7-8) had been scrapped. The delegation should provide updated information in that regard and indicate whether, in the implementation of the Marca España project, care was taken to avoid supporting Spanish companies that were engaged abroad in activities that might have discriminatory effects on women.

36. **Ms. Pimentel** said that, according to information made available to the Committee, under Organic Act No. 8/2013 of 9 December 2013 on improving education quality, pupils who opted for Catholic religious education were not able to

follow courses on "social and ethical values", which taught many of the principles that underpinned Organic Act No. 3/2007 of 22 March 2007 on effective equality for women and men. The Committee had also been informed of cutbacks in the sex education component of some school curricula, despite the provisions of article 9 of Organic Act No. 2/2010 of 3 March 2010 on sexual and reproductive health and voluntary termination of pregnancy. She invited the delegation to comment on the reports, which appeared to indicate a retrograde step.

37. **Ms. Arocha Domínguez** recalled that the Committee did not question the right of States parties to enter reservations to the Convention. It would be useful, however, for the delegation to elaborate on the State party's reply to paragraph 2 of the list of issues (CEDAW/C/ESP/Q/7-8), on the possibility of withdrawing the declaration concerning succession to the Spanish Crown, particularly in the light of paragraph 11 of the Committee's previous concluding observations on Spain (CEDAW/C/ESP/CO/6). She would also appreciate an explanation of how the Government ensured equal respect for women's rights across all autonomous communities.

38. **Ms. Ruiz Bautista** (Spain) said that the Council on Women's Participation was an advisory body comprising 40 representatives from the civil service, women's organizations, employers' associations, trade unions and experts in the field of equal opportunities. Its tasks included the submission of reports and recommendations on gender equality bills, royal decrees and other relevant legal texts.

39. Information on the number and nature of complaints filed with the Ombudsman's Office would be provided in writing within 48 hours. The central Government held regular consultations with representatives of government institutions in each Autonomous Community to enhance coordination and ensure that the gender perspective was incorporated in public policies and programmes.

40. **Mr. González Pacheco** (Spain) said that, between 2010 and 2014, 48 asylum requests had been granted on the basis of gender-based persecution.

41. **Mr. Viada** (Spain) said that the *González Carreño* case was still pending. The author of the communication submitted to the Committee had brought an action for damages against the State that was being processed through administrative channels. Regarding the payment of compensation, in a preliminary report published in June 2015, the Council of State had recalled Spanish case law to the effect that the Committee's findings were recommendations and could not be considered legally binding.

42. **Ms. Ramos García** (Spain) said that religious education in Spain was not limited to Catholicism and covered, among others, Islam and Judaism. Pursuant to Organic Act No. 8/2013, pupils who did not wish to attend religious education classes were required to study social and ethical values instead. That did not mean, however, that pupils could not study both. Sex education was included in a number of subjects and elements of it were addressed specifically in biology and psychology lessons. Moreover, special emphasis was placed in school curricula on the elimination of gender stereotypes and of any form of violence against women.

43. **Mr. Bruun**, supported by **Ms. Pimentel**, said that, in the *González Carreño* case, although the Committee's findings were not legally binding, implementing them and granting compensation would demonstrate respect for the competence of human rights treaty bodies and a strong political will to defend victims of domestic violence.

44. **Ms. Salomón** (Spain) said that a reduction of around 70 per cent in the budget for international development cooperation had inevitably affected the implementation

of gender equality plans and programmes. Gender equality was, however, still treated as a priority in the 2013–2016 Fourth Master Plan for Spanish Cooperation.

45. **Ms. Al-Dosari** asked what was done to facilitate the social integration of immigrant women; what measures had been adopted to eradicate or change gender stereotypes, including at the local authority level; and what policies were in place to protect women members of ethnic or other minorities, particularly in the media. She invited the delegation to provide additional information on maternity leave and to indicate whether any mechanisms had been established to eliminate stereotypes in women's education. The delegation should also describe what was done to foster women's participation in sport and outline the steps taken by the Autonomous Communities to combat gender-based violence, including through the introduction of specific courses in secondary schools. It would be useful to know how the efforts of the Autonomous Communities in that regard were evaluated.

46. **Ms. Acar** said that she was under the impression that the Government of Spain did not have the political will to tackle the problem of gender-based violence. It could choose to deem the observations of the Committee non-binding, or it could take a progressive approach to complying with its obligations under international law. The State party's report made no mention of the Istanbul Convention on preventing and combating violence against women and domestic violence, although Spain had been one of the first countries to ratify the Convention, a fundamental instrument representing an outgrowth of the Committee's general recommendation No. 19 on violence against women.

47. She wished to know, in particular, what was the operational definition of gender-based violence under Spanish law, and to what extent it reflected the kinds of gender-based violence listed in the Istanbul Convention, including stalking, psychological violence and forced marriage, inter alia. Had governmental budget cuts affected shelters and services in the Autonomous Communities?

48. **Ms. Arocha Domínguez** said that although the report contained abundant information on the problem of prostitution and trafficking for purposes of sexual exploitation, it was more descriptive than analytical. Efforts should be made to analyse and evaluate the scope of the problem, and the impact of programmes and plans. Paragraph 84 of the report recognized that the extent of the crime of trafficking in Spain was not known. The replies to the list of issues discussed the number of complaints of gender-based violence, and mentioned measures to improve the protection of women victims and review the risk assessment used by the police. Had those measures been instituted nationwide?

49. Concerns had been raised about the number of girls and women that had been victims of trafficking, many of whom were foreigners; information on services offering support and treatment would be welcome. In addition, it would be useful to know whether gender-training and awareness-raising was offered to persons providing services to victims. It seemed that since the start of the recent crisis in Spain, many more Spanish women had also been turning to prostitution; information on that development would be welcome.

50. **Ms. Urbón Izquierdo** (Spain) said that the Observatory of Women's Image was responsible for ensuring that images shown in the media respected the principle of gender equality. The Observatory had received thousands of complaints; in 216 cases, the Institute for Women and Equal Opportunities had asked companies to withdraw advertising campaigns regarded as sexist. Two companies were being sued for advertising campaigns that violated the principle of equal opportunities. The Institute also organized 15 travelling exhibits, aimed at combating gender stereotypes. A number of other campaigns were being carried out, in such areas as sharing

responsibilities in the home, promoting gender equality in education, and combating gender stereotypes in the workplace. A programme at the University of Santiago de Compostela sought to integrate the gender perspective into all areas of study.

51. **Mr. García Jiménez** (Spain) said that the National Strategy for the Eradication of Violence against Women (2013–2016) comprised 284 measures. The Council of Ministers had declared gender violence a national priority in 2014, within the framework of laws that had already been adopted. Royal Decree-Law No. 3/2013, for example, provided free legal assistance to all victims of gender violence. Numerous bills currently under consideration would establish provisions for the protection of children, give greater power to the court in handling cases of violence against women, and strengthen training for psychosocial teams, inter alia. Spain had ratified the Istanbul Convention without reservations.

52. Detailed information was available on services provided by the Autonomous Communities in rural areas. The website of the Ministry of Health, Social Services and Equality displayed over 300 services providing housing assistance, along with many social, psychological and other services; there was even an interactive page showing which services were available in each community.

53. With regard to the trafficking of girls and women for purposes of sexual exploitation, staff across almost all sectors of the public administration received specialized training in accordance with their areas of competence. For example, in 2012, almost 90 per cent of all personnel in sections of the national police force dealing with illegal immigration networks and document forgery had received training in the area of trafficking.

54. In the Autonomous Communities, the numerous social organizations and non-profit bodies providing services for women victims of violence had received government subsidies 33 per cent higher in 2015 than in the previous year. There were 40 shelters in 14 communities and 120 ambulatory clinics. As for impact, in 2014, women in danger had sought assistance more than 7,700 times, and more than 3,300 consultations had been provided.

55. **Ms. Ruiz Bautista** (Spain) said that she was responsible for implementing the policy aimed at promoting the inclusion and social integration of the Roma population; in 2012 a national framework had been established for that purpose. Assistance was provided in four main areas, namely employment, housing, health and education, taking into account cross-cutting considerations such as gender, non-discrimination and equal treatment. The Advisory Council for the Roma People monitored the actions of the Government and made proposals. Recently, it had proposed strengthening measures to combat discrimination against Roma, in particular Roma women, with emphasis on prejudice, stereotypes, and negative images. The Roma population of Spain was the second largest in Europe, and a significant portion of that population was fully integrated into Spanish society. There remained, however, a core group that was associated with poverty and exclusion. The Government provided funding for programmes designed to improve the image of Roma; as an example, the Andalusian Federation of Roma Women, a group made up of university-educated Roma women, was working to improve the portrayal of Roma women in the media. Other examples were a Roma group that published yearly reports analysing instances of discrimination against the Roma population, and a group called Journalists against Racism which also sought to combat negative images and stereotypes.

56. **Mr. López Soto** (Spain) said that the Higher Council for Sports was the body competent in the area of sports, and its women and sports policy had recently led to the establishment of a Subdirectorate for Women and Sports, which had the role of

promoting equal opportunities for women in the field of sports and removing obstacles to equal treatment. Sports organizations were private, but nonetheless closely linked to the public administrations. Their statutes had recently been revised, calling for at least three women to sit on every board, or at least 33 per cent participation by women. The Universe of Women (Universo Mujeres) programme advocated the social promotion of women through participation in sports. Currently, 49 per cent of participants in competitive sports events in schools were girls; the corresponding figure at university level was 44 per cent.

57. **Ms. Ramos García** (Spain) said that the new Education Act gave each Autonomous Community the capacity to establish its own school curricula in accordance with needs and circumstances; some had incorporated courses related to the matter of gender equality.

58. **Mr. Sánchez-CovisaVilla** (Spain) said that he shared the concerns expressed by Ms. Arocha Domínguez regarding prostitution. He was responsible for coordinating the work of 50 prosecutors throughout Spain specifically assigned to the problem of human trafficking, who were assisted by 63 additional prosecutors spread through the various territories. The Office of the Prosecutor for Immigrant Affairs had modelled its approach on the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol), and later had drawn on other international laws, including Directive 2011/36/EU of the European Parliament and the Council of the European Union on preventing and combating trafficking in human beings and protecting its victims. In the area of prevention, the Government had been striving to do precisely what Ms. Arocha Domínguez had suggested, which was to carry out a criminological analysis, identifying the nationality of traffickers and victims, and studying the violent, abusive and deceptive means and methods used to capture victims in their countries of origin, transport them from country to country, and exploit them on arrival in Spain. Each year, the Office of the Attorney General published a detailed account of such cases on its website.

59. Prosecutors assigned to human trafficking required specific qualifications and awareness of the issues. Most Spaniards were unaware of the existence of human trafficking, and had no conception of the gravity of the crime, which consisted in enslavement and sexual exploitation. Internal coordination was necessary; a complaint or report to any member of the police or Guardia Civil, or to any public prosecutor, was transmitted immediately to the Office of the Attorney General, which monitored and followed each and every case. The Office of the Attorney General had for many years held regular monthly meetings with the Spanish Anti-Trafficking Network, a consortium of more than two dozen non-governmental organizations dedicated to the fight against trafficking. Prosecutors could contact the Attorney General at any hour of the day or night with regard to cases calling for urgent action. For accounts of particular cases, he referred the Committee to reports published online.

60. **Ms. Martín Nájera** (Spain) said that although the Government might not have made mention, in its report and replies, to all the international instruments pertaining to gender-based violence, it had given answers and clarifications to all questions raised. In article 1 of Organic Act No. 1/2004, gender-based violence was defined as a manifestation of discrimination, and of the power of men over women in intimate relationships. On the basis of the Istanbul Convention, other forms of violence, such as stalking, psychological violence and forced marriage, had been incorporated into the law as aggravating circumstances.

61. **Mr. Rodríguez-Salmones** said that there were two facets to the policy regarding foreigners arriving in Spain who did not speak the national languages, namely language instruction and translation services. Lessons in language and culture were

offered, for example, in refugee camps and shelters. The General Secretariat for Immigration and Emigration provided language programmes to immigrants, as did such civil society organizations as the Red Cross and Caritas. Interpretation and translation services were often available in hospitals and courthouses.

62. **Ms. Acar** said that she was not sure that an aggravating circumstance amounted to the same thing as a crime in its own right. She was reassured to learn that Spain had ratified the Istanbul Convention, and expected that it would eventually incorporate those other forms of violence against women into its legislation.

63. She wished to know whether training in domestic violence was obligatory for all judges, including divorce and custody judges, and whether it made specific reference to the Convention and the Optional Protocol.

64. **Ms. Al-Dosari** said that she wondered if there was a strategic plan for combating stereotypes and eradicating harmful practices.

65. **Ms. Arocha Domínguez** asked whether interpretation services were also available at border posts and police stations. She enquired what measures were taken to discourage prostitution, and whether it was the prostitutes themselves or their pimps who were subject to prosecution.

The meeting rose at 1 p.m.

United Nations CEDAW/C/SR.1310

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Committee on the Elimination of Discrimination against Women
Sixty-first session

Summary record (partial)* of the 1310th meeting
Held at the Palais des Nations, Geneva, on Wednesday, 8 July 2015, at 3 p.m.

Chairperson: Ms. Hayashi

Contents

Consideration of reports submitted by States parties under article 18 of the Convention (*continued*)

Combined seventh and eighth periodic reports of Spain (continued)

* No summary record was prepared for the rest of the meeting.

This record is subject to correction.

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 18 of the Convention (*continued*)

Combined seventh and eighth reports of Spain (continued) (CEDAW/C/ESP/7-8; CEDAW/C/ESP/Q/7-8 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Spain took places at the Committee table.*

Articles 1 to 6

2. **Ms. Montero** (Spain) said that the second phase of the Police Plan to Combat Human Trafficking, adopted in February 2015, emphasized the investigation and prosecution of cases of human trafficking and also provided for increasing public awareness of that phenomenon in order to ensure that the victims could be identified and assisted and did not remain invisible. The telephone number and email address for assistance to victims would be widely publicized in newspapers and all media where prostitution services were advertized. Full use would also be made of the Internet and social media, including WhatsApp; for example, on prostitution-related websites a pop-up would warn potential clients that the prostitute they meet could be a victim of human trafficking. Agreements had been entered into with universities to organize conferences on trafficking. Posters and information relating to human trafficking would be distributed to police stations, hospitals, clinics and any other areas where victims might be able to see them. A working group would develop innovative solutions for combatting trafficking on the Internet and social media. Efforts to combat trafficking were governed by the Framework Protocol for the Protection of Victims of Trafficking of Human Beings, which provided for the identification of and assistance to victims. Assistance was provided to all victims without restrictions and regardless of their gender, personal situation, nationality or place of residence.

3. **Mr. Coria Rico** (Spain) said that all persons denied entry or detained at border crossings were entitled by law to legal assistance and to interpretation and translation services. Asylum seekers at ports of entry likewise were put in contact with legal counsel and also had the right to interpretation services. Those language rights were likewise guaranteed in the context of any judicial proceeding.

4. **Mr. Sánchez-Covisa Villa** (Spain), with regard to follow-up monitoring of victims of trafficking, including victims not involved in prostitution, said that monitoring must be adapted to the situation, and nationality, of each victim. Spain implemented the provisions of the Protocol to Prevent, Punish and Suppress Trafficking in Persons, Especially Women and Children supplementing the United Nations Convention against Transnational Organized Crime. Trafficking and prostitution were separate crimes. In cases involving sexual exploitation there was no statute of limitations and exploitation of a minor or use of coercion were aggravating factors. Pimping, per se, was not a crime but was criminalized in circumstances involving exploitation of a vulnerable person or coercion.

Articles 7 to 9

5. **Ms. Leinarte** said that Spain was exemplary in that 41 per cent of the members of its parliament were women; that strong presence was significant given elected officials' role in monitoring the Government's implementation of the Convention. Women parliamentarians should also be a force for change in the area of women's rights. In that context, she wondered whether women parliamentarians maintained close contacts with women's groups in civil society.

6. She said that in general, however, the results of Organic Law 3/2007 on effective equality of men and women in the political sphere had been disappointing. Women were underrepresented in positions of leadership in political parties and in the cabinet and, at the local level, the number of women mayors, while increasing, was only 17 per cent. The number of women regional councillors seemed to have dropped from nearly 40 per cent to 34 percent; she asked whether that could be attributed to reduced spending for equality at the regional level.

7. With regard to the judiciary, she asked why women were so underrepresented at the Supreme Court, higher courts and appeals courts: only 13, 6 and 18 per cent of judges, respectively. The report suggested that that situation could be explained by women judges' relative youth and lack of experience but she wondered what could be done to address that imbalance. With regard to international participation, she said that Spain was active in women's issues but wished to have more specific information on the number of women in the foreign service and diplomatic corps.

8. **Ms. Izquierdo** (Spain), with regard to women's participation in political life, said that the Deputy Prime Minister and Government spokesperson was a woman and 4 of 13 ministers were women; 44.6 per cent of the members of regional parliaments were women and 41 per cent of European members of parliament were women. In the judiciary while 49 per cent of judges were women, only 13 per cent of Supreme Court judges and 16 per cent of Constitutional Court judges were women. Both the Attorney General and Ombudsman were currently women. Much work still needed to be done to improve the participation of women in the political sphere and the judiciary but the performance of Spain was above average in relation to the other countries of the European Union.

9. **Ms. Salomón** (Spain) said that 219 of the more than 900 members of the diplomatic service were women, approximately 23 per cent; only 12 of 199 ambassadors were women. Women were better represented in the 15 special missions of the foreign service, 6 of which were headed by women.

10. **Ms. Menendez** (Spain) said that the delegation would provide written replies to the questions about training provided to judges about the Convention and links between women parliamentarians and civil society women's groups.

Articles 10 to 14

11. **Ms. Nadaraia**, with regard to article 10, said that girls and women were still overrepresented in educational and occupational sectors traditionally seen as more appropriate for women and asked what was being done to implement Organic Law 8/2013 and instil in students the principles of gender equality. While enrolment levels for Roma children had improved, especially at the primary level, where girls achieved better results than boys, she asked what additional measures were envisaged to remove remaining obstacles to Roma children's access to compulsory education. She was also concerned about the effects of budget cuts on university courses on gender issues, especially if universities had a free hand to allocate funds and modify their programmes.

12. **Ms. Acosta Vargas**, with regard to article 11, said that while Spanish legislation guaranteed women's right to work, unqualified, temporary and part-time workers, many of whom were women, tended to be the first affected by budget cuts. Women also had to juggle work and family responsibilities with little help from their spouse. Women's unemployment rate was double that of men and women retirees received substantially lower pensions than men. She wished to know what measures were envisaged in the context of the 2014–2016 Spanish Strategy to Stimulate Employment to protect women workers, address the pay gap, provide training to women, improve the situation of temporary and part-time workers and ensure the availability of day-care services.

13. **Mr. Bruun** asked whether there were any measures aimed at improving the situation of vulnerable groups of women, for example women with disabilities and older, minority and migrant women. With regard to foreign domestic workers, he said he wondered whether Spain intended to ratify the International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189). Given the effects of the current economic crisis on labour markets, he would appreciate having disaggregated statistics for the public and private spheres.

14. **Ms. Pimentel** said that she was concerned about the possible effects of the economic crisis on health care, including psychosocial services, for vulnerable women and women with disabilities and wished to have information on services available to: migrant women whose situation was irregular; victims of sexual violence; and women in rural and isolated areas, in particular with regard to HIV/AIDS care and mental health care. She asked whether the provision in Organic Law 2/2010 requiring girls 16–18 to get a parent's permission for an abortion would be repealed, whether abortion clinics were monitored and what abortion services were available to adolescent girls.

15. **Ms. López Soto**, with regard to education for girls, said that girls generally had 17.9 years of education, as opposed to 17.4 for boys. Teachers at all levels were provided with training to offer psychological, pedagogical and occupational services to students and were also trained on issues relating to gender violence. Students were provided with counselling on possible areas of study after the end of compulsory schooling. While she acknowledged that women were still underrepresented in fields traditionally dominated by men, she pointed out that 20.3 per cent of girls went on to higher education and 22.6 per cent had a middle level occupational qualification, as compared to 22.7 per cent and 22.2 per cent, respectively, for boys.

16. **Ms. Urbón Izquierdo** (Spain) said that the Institute of Women had an annual grant programme, open to all Spanish universities, to support postgraduate courses in gender studies and equal opportunities seminars, congresses and symposiums on related subjects. The National Stock Exchange Commission had made a recommendation that all listed companies should increase women's representation on their boards of directors to 30 per cent by 2020. The European Union directive proposing a 40 per cent quota for female membership of boards of directors was still at the draft stage, but Spain would, of course, take the necessary steps if it was adopted. The Government was involved in public–private partnerships to encourage companies to employ women in positions of responsibility.

17. **Ms. Menéndez** (Spain) said that one of the objectives of National Strategy for the Social Inclusion of Roma (2012–2020) was to improve the collection of data on that group of the population. Accordingly, the Government had funded a comprehensive sociological study on the secondary education of the Roma population for the period 2011–2012. Although almost 100 per cent of Roma children were now enrolled in primary education, there was a high dropout rate among Roma students at the age of 13 or 14, particularly among girls. However, if girls remained in school beyond that age, they tended to have better academic results than boys and were more likely to continue their studies beyond compulsory education. Although the overall proportion of Roma students in tertiary education remained small, more Roma women than men graduated from university. Approximately 7.6 million euros in funding was provided to projects for the Roma population every year, with more than 20 per cent earmarked for education.

18. **Ms. Ortega Sanz** (Spain) said that, under the National Strategy for Persons with Disabilities, specific measures were taken to remove inequalities between men and women with disabilities. The activity and employment rates for women with disabilities, particularly those with severe disabilities, were low and considerably lower than for men with disabilities. Boosting the employment of women with disabilities was a priority

objective, as work was considered the best form of social inclusion. To that end, a series of measures was being taken, such as mainstreaming disability in employment policies, promoting teleworking, and training career guidance professionals on the needs of persons with disabilities. The financial incentives offered to employers for hiring persons with disabilities were higher for women with disabilities than men, as was the financial support provided to persons with disabilities wishing to set up a company.

19. **Mr. Ucelay Rodríguez-Salmones** (Spain) said that the temporary employment rate was the same for men as for women, at 23 per cent. The proportion of involuntary part-time workers was higher among men than women, with 68 per cent for men compared to 60 per cent for women. One of the objectives of the 2012 labour reform had been to reduce dual labour markets and overcome employers' reticence to hire employees on permanent contracts through a variety of steps. Measures taken in relation to part-time work had primarily been aimed at increasing the flexibility of part-time contracts. Part-time workers could not be obliged to do overtime, but they could, voluntarily or by agreement, do additional hours subject to strict criteria. There was a tendency towards closing the gender pay gap, despite the fact that it had been more pronounced during the crisis because of a rise in unemployment among low-paid, unqualified men. The Labour and Social Security Inspection Service carried out campaigns to identify cases of gender-based pay discrimination; the year before, it had visited workplaces employing a total of 160,000 workers and found only 400 such cases.

20. With regard to retraining, there had recently been an innovative reform of the vocational training system, which was expected to have a very positive impact. The allocation of funds to the regional public employment services was based on results, measured by a series of indicators which included equal opportunities and improving women's access to the labour market. With regard to the ILO Convention No. 189, he recalled that, prior to the elaboration of the Convention, Spain had already developed a plan on domestic work that had been described as an example of best practices by ILO. As the plan provided for transitional periods, it would not be wise to change the legislative framework by ratifying the Convention before those periods had elapsed.

21. **Ms. de la Concha Renero** (Spain) said that the gap of 38 per cent between men's and women's retirement pensions was the average; the figure was higher for women in older age groups but was down to 26 per cent for more recent pensions and was expected to decrease further. Although the social security rules were the same for men and women, there were many mechanisms in place, such as top-ups for minimum pension amounts, to help those who needed it most, which tended to be women. Pension contributions were protected during periods in which women had interrupted their careers to take maternity leave, for 112 days, and that figure was due to increase to 270 in 2019. Women who took career breaks to care for children could have a maximum of three contributive years counted towards their pensions. The rules for calculating the pensions of part-time workers had also recently been changed to make them more proportional, which would greatly benefit women.

22. **Mr. Rubio Agenjo** (Spain), referring to the provision of health care to migrant women in an irregular situation, said that currently, in accordance with Royal Legislative Decree No. 16/2012, girls under 18 from migrant families had the same access to antenatal, delivery and postpartum services and coverage in emergency situations caused by accident or illness as insured persons. The Ministry of Health was now negotiating with the autonomous communities to provide irregular migrants with a level of health care comparable to insured persons. Victims of violence and trafficking were entitled to the same level of care as insured citizens. With regard to assistance for rural women, the Government attached great importance to ensuring the accessibility of the health system, and it was guaranteed by law that municipalities with at least 50 health card holders must

have a local surgery that was open for a minimum number of hours per week. There were some 10,000 such surgeries nationwide and a further 3,000 health centres. With regard to treatment for persons with HIV, it was true that the economic crisis had had an impact on the funds allocated to that area, but the budget had been increased in 2015. There had been approximately 3,200 diagnosed cases in 2013, of which only 15 per cent had been women. Of those women, more than half were immigrants. Gender equality was one of the guiding principles of the strategic plan to control and prevent HIV infection.

23. The proposed amendment to the Organic Law on sexual and reproductive health and voluntary termination of pregnancy had been abandoned. A bill had been presented to the parliament that would require women under 18 to obtain parental consent to have an abortion, but the bill was still in the preliminary stages. The abortion rate could be consulted online and had decreased in the past two years, in line with the Committee's recommendation in its previous concluding observations. There was a public register of all abortion clinics, which must be approved by the health authorities and comply with strict criteria, subject to inspection.

24. **Ms. Acosta Vargas** said that she would welcome confirmation that approximately 24 per cent of women worked part time and that 70 per cent of part-time workers were women. She would also appreciate details of the law on the promotion of personal autonomy and care for dependent persons and the situation in relation to the freezing of the minimum wage in 2012.

25. **Ms. Arocha Domínguez** asked how the State party could ensure that university curricula were appropriate and non-discriminatory if it did not have the authority to intervene and how the autonomy of universities was reconciled with the State's obligations under the Convention, particularly articles 2 and 10. With regard to part-time work, the State party should take account of article 1 of the Convention, which referred to discrimination which had the effect or purpose of preventing women from enjoying human rights and fundamental freedoms, as part-time work undoubtedly affected women and men differently.

26. **Ms. Pimentel** asked the delegation to clarify whether heterosexual couples were given priority over homosexual couples in the provision of assisted reproduction services.

27. **Mr. López Soto** (Spain) said that the level of autonomy of Spanish universities did not run counter to the Convention, but quite the contrary.

28. **Mr. Ucelay Rodríguez-Salmones** (Spain) said that while 70 per cent of part-time workers in Spain were women, it was important to take into account the percentage of women who were voluntarily working part-time.

29. **Ms. de la Concha Renero** (Spain) said that information on the law on the promotion of personal autonomy and care for dependent persons would be provided in writing.

30. **Mr. Rubio Agenjo** (Spain) said that the regulations governing the provision of assisted reproductive technology set out the range of services available under the national health system and stipulated that they were to be provided for therapeutic reasons in cases of sterility or reproductive disorders or to prevent the transmission of serious diseases.

31. **Ms. Nadaraia**, noting that the economic crisis had affected women most profoundly and that there was an emerging feminization of poverty, said that she would appreciate it if the delegation would comment on women's access to credit and property ownership, which was reportedly limited.

32. **Ms. Gabr** said that she welcomed the efforts being made for the empowerment of rural women. She would be interested to hear specific examples of women who had

benefited from subsidies or State support. She wished to know more about the use of the registers of shared ownership that had been established at the Autonomous Community level. She asked about the indicators being used to measure the results of the gender equality plan in the area of agriculture. She wondered what percentage of the overall population was Roma and why support for Roma women was being provided in the form of measures to combat child poverty. Lastly, she wished to know what action had been taken in response to the recommendations of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance concerning vulnerable migrant women.

33. **Ms. Ortega Sanz** (Spain) said that there were no data on loans made to women. There was a programme to support women entrepreneurs, jointly run with the Chamber of Commerce, and the Government had entered into a cooperation agreement with the Spanish microlender MicroBank to provide women entrepreneurs with loans on favourable conditions. With respect to rural women and the implementation of Act No. 35-2011, a register of the joint ownership of farms indicated that on 29 June 2015 there had been 136 such farms. The results of the implementation of the Act were being evaluated. Under the Strategic Plan for Gender Equality in Sustainable Development in Rural Areas for the period 2011–2014, there were programmes to support rural women, and those programmes promoted technical innovation, training and other projects.

34. A plan for the promotion of rural women was being examined and it was expected that the Council of Ministries would approve it shortly. It had been provided for under the Strategic Plan on Equality of Opportunity. Its overall objective was to improve the social inclusion and labour force participation of rural women. Its primary goals were to acquire updated information on the situation of rural women, publicize their role in society, close the gap between rural and urban women, serve as a reference point for public authorities, establish a model of intervention and support for rural women and further gender equality in rural areas.

35. **Mr. Ucelay Rodríguez-Salmones** (Spain), referring to women in agriculture, said that a survey of the situation of rural women had revealed that there were numerous cases of discrimination in the area of working conditions. There were guarantees regarding recruitment, regulated by a ministerial order, and the provision of decent housing for immigrant women, and inspections of such housing had been carried out. Campaigns were being conducted together with civil society organizations in order to raise awareness of the importance of gender equality in labour relations, particularly among immigrants.

36. **Ms. Ruiz Bautista** (Spain) said that her Government cited the figure of 1.6 per cent when referring to the proportion of the population that was Roma. An objective of the Plan for Social Inclusion was the reduction of child poverty, for which 17 million euros had been allocated. Of that amount, 1 million had been reserved for the Roma population. Regarding funding given to social organizations to combat inequalities in the area of education, almost 100 per cent of Roma children were enrolled at the primary level, although the situation was less encouraging at higher levels of education, and programmes were in place to encourage Roma children, particularly girls, to remain in school; there were programmes to prevent absenteeism, failure and dropout among Roma girls.

37. **Ms. Salomon** (Spain) said that immigrant women who were victims of human trafficking would be informed about the resources available to them, which included decent and safe housing, financial support, psychological and medical assistance, interpretation services and legal aid.

Articles 15 and 16

38. **Ms. Halperin-Kaddari**, referring to the question of whether domestic violence must be taken into account when deciding upon the custody of children, said that according to information in the media, 97 per cent of men who were prohibited from contacting their partners nevertheless had unsupervised and unlimited visits with their children, which indicated that domestic violence was not being taken into consideration. Paragraph 54 of the State party's replies indicated that, under pending amendments to the Criminal Code, there would be greater protections for the children of a parent who had been convicted of domestic or gender-based violence. However, reform of the Criminal Code was not enough, because such considerations should also be incorporated into the legislation dealing specifically with parents and children and the exercise of parental authority and other family law. Moreover, the future legislation referred to depended on final judgements in domestic violence cases, which was not satisfactory because domestic violence proceedings tended to be very lengthy and it was sometimes very difficult to convict offenders. There were examples of good practice from other countries that had revised their legislation on parenting, which recognized that in such cases, as one Human Rights Commissioner had put it, the safety of children had been sacrificed on the altar of fathers' parental rights. She urged the State party to revisit the issue.

39. With respect to existing legislation, the State party had said that the exercise of parental authority, child custody and visiting arrangements could be suspended as a precautionary measure against those accused of gender-based violence. She agreed with that measure, but was concerned that data from the General Council of the Judiciary indicated that visiting rights were suspended in only 3.4 per cent of applications for a court order for suspension, which was alarming, and showed that those precautions were not being exercised and that children's safety was at risk. She would appreciate an explanation from the delegation.

40. Concerning paragraph 303 of the State party report regarding deaths of minors as a result of gender-based violence, the existence of a new dataset on that issue was encouraging, and she asked whether there was information on such deaths occurring during or following the separation or divorce of the parents. Media reports indicated that between 2008 and 2014, 31 minors had been murdered by their fathers, 20 of them during authorized visits granted by a legal authority. The State party was not doing enough to prevent such occurrences. She asked whether supervised visits might be possible, so that the child might maintain contact with the father yet be protected, and whether data were available on that issue.

41. The Spanish legislature appeared to perceive the issue of false allegations of domestic violence by women as the more urgent issue, given article 35 of the Victim of Crimes Act (No. 4/2014 of 27 April 2015), which provided for reimbursement to the accused in cases of false claims. The rate of such false claims was negligible, according to data from the Attorney General. She asked, therefore, why that new article had been enacted.

42. Another alarming development was the growing number of allegations of "parental alienation syndrome", raised by fathers against mothers. In other words, there was a trend in which men accused of abuse and violence claimed that the mothers were in fact lying and alienating their children from them. Increasing numbers of courts refrained from using the term "parental alienation syndrome", yet Spanish courts still relied on it and used it. It was necessary to train not only the judiciary about the issues she had raised, including parental alienation syndrome and its dubious nature, but also welfare officers and mental health experts who provided assessments to the courts. Did the State party offer such training? Lastly, regarding property distribution and the matrimonial property regime, was it possible to take into consideration the increase in a spouse's earning potential on account

of the other spouse's work at home and care work? Was that part of the Government's matrimonial property regime?

43. **Ms. Martín Nájera** (Spain) said that since the *González* case of April 2013, there had been many amendments to the law and other measures regarding gender-based violence. With regard to minors involved in a violent situation in which the mother was the victim, there was relevant legislation at a number of levels. At the penal level there were precautionary measures and protective measures aiming to end the violence; those governed visiting rights, for example. The Public Prosecution Service not only reaffirmed and reminded public prosecutors to apply rigorously the prohibition on joint custody in that type of event, but also went further than that, urging prosecutors to prevent the violent parent from having individual custody of the children.

44. The regime for visiting rights took into consideration the rights of children as well as the rights of parents in each case. On many occasions mothers wanted their children to be in contact with their fathers. Whenever there was a protection order, the children's visits with fathers were subject to third party control, ranging from the appointment of an intermediary, so that the victim and perpetrator did not come into contact with each other, to the limiting of visits to certain hours and days and having them take place in particular meeting places.

45. The percentage of false accusations by women was negligible. Neither the civil nor the prosecution authorities considered parental alienation syndrome to be a scientifically proven pathology, and it was not accepted. On the subject of the division of assets upon dissolution of a marriage or partnership, it was customary for the work that either partner did for the family to be taken into account when the relationship ended, in accordance with article 97 of the Civil Code. Regarding false complaints, under the Victims of Crime Act, article 35, compensation paid out to persons in their capacity as victims of a crime on the basis of a false report was subject to reimbursement. The article of the law would apply only to sentences handed down as a result of a false complaint. Reimbursement would take place following a criminal conviction for having made false allegations.

46. Training on working with victims was given to the relevant personnel in the crime victims assistance offices in the provincial capitals and large cities, who provided victims with information during proceedings, and in comprehensive intervention units, where a doctor, psychologist and social worker evaluated, among other things, the effects of violence in the home on children.

47. **Mr. García Jiménez** (Spain), said that statistics on minors who had been murdered by the parent's partner so as to hurt the mother had been published and disseminated since January 2013. Compulsory training on gender-based violence for the psychosocial support teams and social workers of forensic units would also be provided under a bill currently pending adoption.

48. **Ms. Halperin-Kaddari**, referring to a bill on cooperation and other measures in cases of annulment, separation and divorce aiming to establish default joint physical custody of children, asked what the position of the Government was with respect to that bill. Some jurisdictions that had adopted such a strategy realized that default joint physical custody posed a risk to the welfare of children in cases involving severe conflict between the parents.

49. **Ms. Martín Nájera** (Spain) said it was her understanding that that bill had been suspended, but she would check that point and inform the Committee.

50. **Ms. Menéndez** (Spain) said that the number of members and high level of her delegation was an indication of the importance attached by her Government to such

exercises, from which everyone could learn and which enabled them to continue to fight against discrimination against women.

51. **The Chairperson** said that she was grateful to the delegation for the constructive dialogue with the Committee. The Committee commended the State party for its efforts and encouraged it to take all necessary measures to address the Committee's recommendations, which would be communicated to it in writing. She looked forward to receiving the State party's next periodic report.

The discussion covered in the summary record ended at 5.15 p.m.

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Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women
Sixty-first session

Summary record of the 1311th meeting
Held at the Palais des Nations, Geneva, on Thursday, 9 July 2015, at 10 a.m.

Chairperson: Ms. Hayashi

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Consideration of reports submitted by States parties under article 18 of the Convention (*continued*)

Combined fourth and fifth periodic reports of the Gambia

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of the present document* to the English Translation Section, room E.6040, Palais des Nations, Geneva (trad_sec_eng@unog.ch).

Any corrections to the records of the public meetings held during this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

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The meeting was called to order at 10 a.m.

Consideration of reports submitted by States parties under article 18 of the Convention (*continued*)

Combined fourth and fifth periodic reports of the Gambia (CEDAW/C/GMB/4-5; CEDAW/C/GMB/Q/4-5 and Add.1)

1. *At the invitation of the Chairperson, the delegation of the Gambia took places at the Committee table.*

2. **Ms. Graham** (Gambia), introducing the State party's combined fourth and fifth periodic reports (CEDAW/C/GMB/4-5), said that the Gambia had demonstrated its commitment to ending violence against women and girls by ratifying a number of international instruments, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. It had also s'gned and undertaken to implement a number of international conventions, agreements and declarations as part of its efforts to give effect to the Beijing Declaration and Platform for Action, including the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa and the Solemn Declaration on Gender Equality in Africa. The Government of the Gambia was committed to strengthening its legal framework and to continuing to integrate the promotion and protection of women's rights into its national development strategies. The President of the Gambia had set up a special trust fund that provided thousands of girls with scholarships to pursue further education.

3. The Gambian Constitution guaranteed the protection of the fundamental rights and freedoms of all persons in the Gambia, irrespective of their race, gender, language, religion, political opinion, national or social origin, birth or other status. However, the country's multicultural composition stood as an obstacle to social and legal reforms, thereby undermining the achievement of gender equality and women's empowerment.

4. The taboo against reporting cases of gender-based violence and the prevailing negative attitude towards the victims of the phenomenon often deterred women and girls from speaking out. However, the enactment of several laws to address gender-based violence had led to an increase in the number of reported cases. The purpose of the Women's Act 2010, which had recently been translated into various local languages, was to enforce women's rights and to provide them with comprehensive protection against all forms of violence and discrimination. The Act transposed the provisions of the Convention on the Elimination of All Forms of Discrimination against Women and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa into the domestic legal order and implemented the National Policy for the Advancement of Gambian Women and Girls. The Act provided for several measures to reduce gender inequalities and to promote substantive equality between men and women in the country, including monitoring the prevalence of gender-based discrimination in the public and private spheres and improving the living conditions and elevating the status of women. The Act mirrored the constitutional provision guaranteeing freedom of expression, making it specifically applicable to women, and took account of the circumstances in which women were denied that freedom on account of the country's patriarchal society. Under the Act, women whose rights had been violated could approach a competent court to seek redress.

5. The Act required all State institutions and private enterprises to adopt temporary special measures aimed at accelerating de facto equality between men and women; specifically prohibited discrimination against and the stereotyping of women in the employment sphere; and afforded working mothers special protection, which included six months of paid maternity leave without loss of employment, seniority or other

benefits. The Act also recognized the right of women and girls to an education, prohibited discrimination against women and girls in the educational sphere and outlawed the removal of girls from school for marriage. In addition, the Act covered reproductive health rights and services, including the right to obtain a medical abortion when continuing with the pregnancy would endanger the life of the mother or the foetus. The Act also contained provisions aimed at increasing the number of women in politics and in decision-making positions. However, despite the considerable progress made in that area, the Gambia had not yet attained the required ratio of 30 per cent female representation at all levels.

6. The Domestic Violence Act 2013 contained a broad definition of "domestic violence" and "domestic relationship" to provide the most comprehensive protection possible to the victims of that phenomenon. The Act also stipulated that persons charged with having committed the offence of domestic violence could not invoke the alleged consent of the victim as a defence. Victims of domestic violence could seek redress by filing a formal complaint against the perpetrator and by applying for a protection order from the courts. If found guilty, perpetrators of domestic violence were liable to a fine, to a prison term not exceeding 2 years, or both. The purpose of the Sexual Offences Act 2013 was to amend the provisions of the Criminal Code concerning trials for rape and other sexual offences and measures to combat sexual offences. In the Gambia, common law, customary law and sharia law operated in parallel. However, any person residing in the Gambia could approach the civil courts. Customary laws only applied to the members of certain communities. Sharia law was invoked in matters such as marriage, divorce, devolution of property and inheritance in the communities to which it applied.

7. The High Court had recently issued two decisions relating to the enforcement of the Women's Act in disputes concerning the equitable distribution of matrimonial property at the end of a marriage. However, some of the rights accorded to women under the Women's Act were restricted because some of its provisions relating to marriage and the family were governed by personal law. As the overwhelming majority of Gambians were Muslims, care had to be taken to ensure that those provisions did not come into conflict with sharia law.

8. The Human Rights Unit of the Office of the Ombudsman had dealt with a number of complaints of discrimination on the grounds of disability filed by vulnerable women. The Education Sector Strategic Plan 2006–2015 contained gender mainstreaming strategies geared to minimizing educational costs, especially for girls. Special grants were also available to ensure that all children had access to free basic education.

9. The purpose of the Trafficking in Persons Act 2007 was to prevent trafficking in persons, to punish traffickers and to rehabilitate and reintegrate victims. The Children's Act 2005 provided for various protection measures for children who were the victims of sexual offences and prohibited the import and export of children for prostitution. The national machinery for the advancement of women included the Ministry of Women's Affairs as the primary coordinating and monitoring mechanism for activities to promote women's rights and the National Women's Bureau as the body responsible for providing technical support on gender mainstreaming to the different government ministries and institutions. Further measures to assist women included the setting up of drop-in centres for victims of gender-based violence and a dedicated hotline operated by the Department of Social Welfare.

10. The Government recognized that the country's patriarchal norms and values were one of the root causes of violence against women and girls. While considerable progress had been made in curbing that phenomenon, despite a lack of human and financial resources, much remained to be done. The Government of the Gambia

remained committed to promoting women's rights and to ending all forms of discrimination against women.

Articles 1 to 6

11. **Ms. Nadaraia** commended the equality and non-discrimination provisions of the Gambian Constitution, the role of the Women's Act in enforcing women's rights and achieving gender equality and the purpose of and protection provided by the Trafficking in Persons Act, the Sexual Offences Act and the Domestic Violence Act. However, the prohibition of gender-based discrimination provided for in the Constitution did not apply in respect of matters such as adoption, marriage, divorce, burial or devolution of property, which were governed by personal law based on sharia and traditional practices. As a result, Muslim women were placed on an unequal footing with men in family matters and made subject to different standards of justice. Moreover, cadi courts, which were the courts competent to rule on such matters, were often male-dominated and patriarchal in nature. The Committee had also received information to the effect that the Women's Act was not widely known and that consequently very few women used it to assert their rights.

12. A further cause for concern was that the definition of a child did not apply in respect of marriage, as child marriage was not formally prohibited and that no minimum age of marriage had been established. The Committee had received reports that women's rights defenders were often subjected to intimidation and given little or no protection. She asked to what extent women's organizations had contributed to the State party's periodic report.

13. **Ms. Graham** (Gambia) said that the Gambia had a dual legal system composed of common law and personal law. Estates were divided up and burial rites were performed in accordance with the personal law applicable to the deceased person. If the deceased person was a Muslim, he or she would be buried and his or her estate would be divided up in accordance with sharia law. If the deceased was not a Muslim, common law applied. The Curator of Intestate Estates could set up a trust fund on behalf of the beneficiaries of a deceased Muslim man and provide his widow with advice on how to invest her portion of his estate. Employees were required to specify their next of kin in order to facilitate the transfer of employment benefits upon their death. Under sharia law, if a Muslim man was survived only by a female child, she would receive half of his estate while the remaining half would be divided up among the deceased man's siblings and parents. However, the estate could also be divided up according to specific instructions left by the deceased. The majority of Gambians entrusted the task of dividing up the estates of deceased relatives to the Curator of Intestate Estates as opposed to the cadi courts, as the former's procedure was more straightforward.

14. **The Chairperson** asked whether civil society and women's organizations had participated in the preparation of the State party's report (CEDAW/C/GMB/4-5).

15. **Mr. Marong** (Gambia) said that the Office of the Vice-President and the Ministry of Women's Affairs had established gender focal points in all ministries, institutions, civil society organizations and NGOs and that the latter were involved in the implementation of the Convention on the Elimination of All Forms of Discrimination against Women.

16. The Office of the Vice-President and the Ministry of Women's Affairs worked closely with cadis and other religious leaders and provided them with training on the provisions of the Women's Act. The Act had been translated into Arabic and various local languages and was being disseminated throughout the Gambia.

17. **Ms. Graham** (Gambia) said that the cadis were highly qualified and well versed in jurisprudence; they had codified and simplified their rules and subscribed to the Maliki school of thought. Early marriage was prohibited under the Children's Act, and children could not be withdrawn from school to contract early marriage.

18. **The Chairperson** pointed out that the Gambia had not yet accepted the amendment to article 20, paragraph 1, of the Convention concerning the meeting time of the Committee on the Elimination of Discrimination against Women and urged it to do so.

19. **Ms. Gabr** expressed concern about the large number of mechanisms devoted to women's affairs and asked how the mechanisms were coordinated. Information on the establishment of their mandates and the source of their funding would be welcome. She enquired whether the Gambia had a comprehensive strategy on women and, if so, which mechanism funded the strategy and oversaw its implementation.

20. **Mr. Marong** (Gambia) said that the Ministry of Women's Affairs headed the national machinery for the advancement of women. It established programmes, mobilized resources for the implementation of the Gender Policy 2010–2020 and provided support to gender focal points.

21. The Women's Bureau in the Ministry of Women's Affairs provided technical support on gender mainstreaming to ministries, institutions, local governments, civil society organizations and the private sector. Civil society organizations and NGOs worked with the Bureau and kept it informed of developments at the grass-roots level.

22. The National Women's Council was composed of women representatives from every district, who advised the Government on matters affecting women's well-being and welfare. The representatives also helped to raise awareness of legislation affecting women.

23. **Ms. Nadaraia**, noting the prevalence of temporary special measures in the Gambia, asked why such measures applied to women in middle management positions, but not to women in decision-making positions or to women's political participation.

24. **Ms. Graham** (Gambia) said that temporary special measures had been established under the Women's Act with a view to promoting gender equality. The Act prohibited discrimination against women in employment and afforded protection and benefits, such as maternity leave, to working mothers. It also prohibited discrimination in education and recognized the right of every girl and woman to an education.

25. While 5 out of 15 Cabinet members were women, there were few women representatives in the National Assembly and in local governments. The exclusion of women from decision-making positions reflected the low status of women in the Gambia and should be addressed.

26. **Ms. Foon** (Gambia) pointed out that the Deputy Speaker of the National Assembly was a woman.

27. **Ms. Gabr** said that she was not seeking information on women representatives in parliament, but rather on the channels of communication between parliament and the machinery for the advancement of women. With regard to funding, her question concerned not so much specific donors, but rather the availability of reliable funding to cover, inter alia, the staffing costs of women's affairs mechanisms. She also asked for clarification on the funding and composition the National Women's Federation.

28. **Ms. Graham** (Gambia), referring to the channels of communication between women and parliament, said that women expected members of parliament to represent them and convey their concerns to the Government. For example, the Women's Act had been adopted by parliament as a result of the concerns raised by women activists,

civil society organizations and NGOs. Women enjoyed freedom of expression and could express their grievances to parliament.

29. With regard to reliable funding for staffing costs, she said that government employees were paid without fail. Domestic workers or workers in the private sector could address complaints concerning remuneration to tribunals or the Office of the Ombudsman.

30. **Mr. Marong** (Gambia) said that the National Women's Federation was a forum for women to meet and air their concerns; however, it lacked funding and relied on donations.

31. **Ms. Gabr** asked whether the Gambia was planning to establish a national human rights commission in accordance with the Paris Principles and whether there would be a link between the commission and existing mechanisms. She also wished to know which mechanism was responsible for amending legislation and drafting laws on women's rights.

32. **Ms. Graham** (Gambia) said that the establishment of a national human rights commission was still under consideration. However, the Office of the Ombudsman was empowered to address human rights violations and to administer justice in that regard.

33. **Mr. Marong** (Gambia) said that the Office of the Vice-President was responsible for gender issues. Proposed amendments to legislation were sent to the Ministry of Justice for review and then returned to the Ministry of Women's Affairs.

34. **Ms. Gbedemah** said that the delegation had not yet responded to the question about women's rights defenders. Had the State party taken steps to ensure that women's rights defenders enjoyed freedom of expression?

35. **Ms. Graham** (Gambia) said that the allegations surrounding women's rights defenders were unfounded; none had been detained, tried or convicted for seeking information or expressing opinions about the Government or the status of women. Nevertheless, the right to information and the right to freedom of expression were not absolute and were restricted under the Constitution.

36. **Ms. Patten** noted that the Gambia did not have a specific law on female genital mutilation and that the national plan of action on female genital mutilation had not yet been approved. Was technical assistance being sought in that regard? The Committee would welcome a time frame for the elaboration and adoption of a law banning female genital mutilation and punishing the perpetrators.

37. Noting the adoption of the Domestic Violence Act and the Sexual Offences Act, she asked if any training on the legislation was being provided to the judiciary or law enforcement officials. Were the gaps and loopholes in the legislation being addressed? She expressed concern at article 36 of the Domestic Violence Act, which provided that cases of non-aggravated domestic violence could be settled out of court, and asked if there were any data on the number of cases that had been settled in that manner. She also asked if the reporting and monitoring mechanisms outside the greater Banjul area had been improved. Lastly, she wished to know whether the Government was working with women's organizations and NGOs to raise awareness of violence against women and the new legislation.

38. **Ms. Hofmeister**, emphasizing the importance of article 5 (a) of the Convention, which called on States parties to modify social and cultural patterns that were based on ideas of inferiority or superiority of either of the sexes or on stereotypes, said that it was aimed at achieving de facto equality. Social structures were undermined by patriarchal systems of the kind acknowledged to exist in the Gambia, which were

based on an assumption of the biological inferiority of women. Moreover, the country's so-called "personal law" hindered the enforcement of its Constitution and the implementation of the Women's Act and other laws.

39. She asked what action the State party was taking to implement joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (CEDAW/C/GC/31-CRC/C/GC/18), which called for the immediate abolition of female genital mutilation and other harmful practices and the adoption of comprehensive awareness-raising programmes to change attitudes, traditions and customs. What efforts had the State party undertaken to harmonize personal law with written law and sharia?

40. **Ms. Al-Dosari** said that the United Nations Population Fund (UNFPA) had been responsible for coordinating a campaign and action plan against female genital mutilation, seeking inter alia to make women more autonomous in combating the practice. Had that goal been achieved? What measures had been taken against forced marriage, or to reinforce legal provisions for the defence of women's rights? What steps had been taken to encourage civil society and non-governmental organizations to combat gender-based violence? Were their activities limited to awareness-raising, or were women involved in decision-making processes and in the actual monitoring of gender-based violence? Paragraph 34 of the report mentioned a survey which showed that the number of women reporting that they had been forced to engage in sex had declined nearly threefold between 2002 and 2005. What was the reason for the decline? According to the survey, the problem was more acute in peri-urban areas. Had the Government taken any steps to target the problem in those parts of the country?

41. A study by the International Labour Organization (ILO) had concluded that there was a link in the Gambia between gender violence and HIV/AIDS. The delegation should describe programmes aimed at combating family violence and should inform the Committee of any obstacles encountered in their implementation. It should provide the Committee with data on reports and prosecutions of acts of family violence, sexual assault and rape and with information on victim rehabilitation efforts.

42. **Ms. Graham** (Gambia) said that a national plan of action to accelerate the abandonment of female genital mutilation and circumcision had been drawn up and that the Government and civil society organizations currently addressed the problem through community empowerment programmes, the main purpose of which was to prompt community-based action that would lead to the abandonment of the practice. The programmes were based on best practices employed in other countries, such as Senegal. The Ministry of Basic and Secondary Education had adopted a curriculum that included human rights together with the dangers of female genital mutilation, and teachers had been given continuous training in those subjects. UNFPA and the United Nations Children's Fund (UNICEF) had both actively supported awareness programmes. The main non-governmental organization working against female genital mutilation in the Gambia was the Gambia Committee on Traditional Practices Affecting the Health of Women and Children (GAMCOTRAP), which had held training sessions for members of parliament in 2010 and was continuously working, along with a number of other civil society organizations, to eliminate harmful practices, in particular by engaging professionals in the health-care sector and traditional leaders.

43. Unfortunately, the Women's Act did not currently criminalize such harmful practices. However, Gambian law had been changed several times in recent years to provide additional protection to women and girls, notably through the adoption of the Women's Act, the Domestic Violence Act and the Sexual Offences Act. Approximately 10 persons had been convicted for offences under the Sexual Offences Act. The

Domestic Violence Act included innovative provisions extending the definition of domestic relationships to include the extended family and establishing that violence in a domestic setting could not be considered to be a private, family affair. Under the Act, victims could apply for court-ordered protection.

44. Some 95 per cent of Gambians were Muslims for whom it was important that the distribution of property should be equitable, which did not necessarily mean equal. That approach was in accordance with sharia, which called for male heirs to receive twice as much as female ones. The principle was an entrenched tradition among Muslims and an integral part of sharia. She had not heard of a single court case brought by a Muslim woman or a civil society organization complaining of discrimination in that regard. The practice was not at all perceived as an imposition, but rather as an expression of the faith, following the inheritance rules set out by sharia. Inheritances for Christians and animists were governed by personal law (common law), and were not affected by sharia, so there was no conflict. The Gambia had unrivalled religious harmony between Christians and Muslims.

45. Human rights issues did indeed arise in connection with inheritance. In some animist groups, tradition called for widows to remarry their deceased husbands' brothers, failing which they would be evicted from the marital home. Some people who claimed that they were animist did so in order to engage in polygamy, but were in fact Christian. If it was determined that a deceased person had had a Christian burial, the inheritance was handled according to Christian law.

46. **Mr. Marong** (Gambia) said that notwithstanding the fact that there was currently no law specifically prohibiting female genital mutilation, the Government made efforts to combat the practice, for example by supporting the activities of non-governmental organizations. The practice was deeply rooted in Gambian culture and tradition, and the Government considered that the national plan of action funded by UNICEF and UNFPA should concentrate on changing public attitudes. Practitioners of genital mutilation were generally women, and the campaigns sought to raise their awareness of the harmful effects of the practice. GAMCOTRAP had carried out admirable work in that regard, resulting in more than 10,000 women practitioners halting their activities and taking up other income-generating work.

47. According to the information at the Government's disposal, up to 75 per cent of women reported being victims of gender-based violence, and the Government had thus adopted a national plan of action to address that problem.

48. **Ms. Graham** (Gambia) said that the enactment of a law banning female genital mutilation, a practice rooted in the country's culture and tradition, could be counterproductive, as the law would be likely to be disregarded as unrealistic. Democracy, like human rights, was a process. The Gambia had come a long way, and the Government had met all of its obligations and had provided resources to civil society organizations, including GAMCOTRAP. The laws that it adopted were not merely statements of intent; they had to be enforceable enactments.

49. **Mr. Marong** (Gambia) said that between January and June 2014, perpetrators of gender-based violence had been convicted in more than 120 cases that had been reported to various hospitals, government departments, lawyers' associations and police units. Some were still serving their sentences. A national Standing Committee on Gender-based Violence, made up of representatives of government ministries, the Attorney General, the Gambian Police Force, the Female Lawyers Association-Gambia, hospitals and the Women's Bureau, had been established in 2012 with the aim of coordinating action to combat the phenomenon. In 2010, the Ministry of Health had incorporated modules on female genital mutilation and circumcision in nursing school

curricula, and in 2012, the Women's Bureau had developed a data-collection tool for the monitoring of data on circumcision.

50. **Ms. Patten** pointed out that numerous international bodies had called for the adoption of a law banning female genital mutilation and that the Gambian Government itself had accepted a recommendation emanating from the universal periodic review of the Human Rights Council to immediately prohibit the practice in law. It was thus all the more disturbing to learn that no procedure was under way to adopt such a law. Domestic violence legislation required constant revision. Was the Domestic Violence Act subject to such review? The provision in the Act allowing out-of-court settlements was fraught with danger. It was well known that victims were often subjected to enormous pressure not to bring charges.

51. **Ms. Jahan** said that, as a fellow Muslim, she was aware that there was ample scope in Islam for interpreting sharia in non-discriminatory ways and that there was no contradiction between Islam and the concept of equal rights. Many Muslim countries had adopted flexible approaches to ensure equal rights for women without compromising the essence of the religion. She encouraged the Gambia to follow best practices in that regard.

52. **Ms. Gabr** said that there was no link between Islam and female genital mutilation, a tradition practised mainly in the Nile valley. It was important to point that out in the awareness-raising activities carried out in the Gambia.

53. **Ms. Gbedemah** said that it was encouraging that acts of violence in domestic settings were no longer treated as private affairs under the law. In the same vein, the law should prohibit marital rape. The Sexual Offences Act did not prohibit marital rape. There was no reason for married women to have less legal protection against rape than unmarried women.

54. Clearly, there was a groundswell of support for the prohibition of female genital mutilation in the Gambia. Over 10,000 practitioners had stopped performing the procedure. Abolishing the practice in law would build on that trend and would bring the State party's legislation into line with the views gaining currency in society.

55. She congratulated the State party on the adoption of the Trafficking in Persons Act and the Tourism Offences Act. The Government had established a National Agency against Trafficking in Persons that had the mandate to defend the rights of victims of trafficking irrespective of their immigration status, including their right to bring civil action and claim compensation, restitution and recovery. Had any victims of trafficking actually benefited from those provisions? No one had so far been prosecuted under the Act, but the Government had stated in its replies to the list of issues that one person was under investigation for trafficking persons to Lebanon. What was the status of that case? Prostitution was prohibited in the Gambia. Did the Government have any programmes of assistance for persons wishing to abandon prostitution and for victims of child sexual exploitation?

56. **Ms. Haidar** invited the Government to follow best practices in the application of sharia law. Morocco and other countries applying the Maliki school of thought had made tremendous progress. The Moroccan population, like that of the Gambia, was over 95 per cent Muslim, and the country had already gone through two stages of revision of its family law. In any country, women could opt to marry persons of faiths different from theirs. Gambian law should include provisions to cover such cases.

57. **Ms. Al-Dosari** asked what role the media played in combating violence against women.

58. **Ms. Graham** (Gambia) said that it was often cheaper and more time-efficient for disputes to be settled out of court, and that was therefore common practice in cases

pertaining to matrimonial rights and land law. If the litigants were not satisfied with the result of the settlement, they were entitled to institute fresh proceedings. Marital rape needed to be addressed because it was a concept that was not fully understood by Gambian society, and by Gambian men in particular. Regarding the inequality of inheritance between men and women, she said that, despite the dominance of Maliki jurisprudence in the Gambia, the delegation would welcome advice from different Islamic schools of thought on the issue.

59. **Mr. Marong** (Gambia) said that although marital rape was punishable under the Women's Act 2010, it had been decided following discussions with religious leaders that it should not be recognized as an offence and that the relevant provision should therefore be removed from the Act. Given that 95 per cent of the Gambia was Muslim, the Government followed the guidance of its religious leaders, although that was not to say that the Act would not be later amended to classify marital rape as a punishable offence.

60. **Ms. Graham** (Gambia), referring to trafficking and exploitation, said that the National Agency against Trafficking in Persons had launched a number of awareness-raising campaigns for border security officials and communities. Since the introduction of the Trafficking in Persons Act, no prosecutions or convictions had taken place but an investigation was currently being conducted into a case in which a number of girls had allegedly been trafficked into Lebanon. Preventive measures were being taken by the National Agency in collaboration with law enforcement bodies. The National Agency was funded solely by the Government, and shelters for trafficking victims had also been made available by the State.

61. **Mr. Marong** (Gambia) said that gender-based violence was punishable under the Women's Act and the Sexual Offences Act. Reported cases were monitored and investigated by a committee under the Office of the Vice President. Furthermore, efforts were under way to enact a law prohibiting female genital mutilation (FGM). A bill had been drafted in that regard and was currently being reviewed by the Cabinet of Ministers. Awareness-raising on the dangers of the practice was also being conducted.

62. **The Chairperson** said that she would appreciate a comment on how the Government was ensuring the implementation of the mandatory provisions of the Women's Act 2010 on increasing the number of women in decision-making positions. She also enquired about the current state of the implementation of the Gender and Women Empowerment Policy and the Local Government Act, and about efforts to prevent women from being forced into marginal positions in local governments owing to the prevalence of cultural and religious misconceptions, as reported by alternative sources. At the national level, the representation of women in the National Assembly was considerably below the 30 per cent level set as a minimum by the United Nations. Moreover, the percentage of women in national parliament and ministerial positions had fallen since the early 2000s and the Committee wished to know why that was the case. Furthermore, she asked whether any sanctions could be imposed in the event of non-compliance with the Women's Act, what women in elected bodies were doing to enhance the participation of women in decision-making, and whether there were plans to increase the participation of women at the international level.

63. **Ms. Gbedemah** said that alternative sources claimed that there were obstacles to registering the birth of a child in the Gambia, particularly for children born out of wedlock or to single mothers, on account of stigmatization. Moreover, alternative sources also reported that it was difficult to register children over the age of 5. She would like to know what the Government was doing to eliminate stigmatization from such procedures, and to simplify the registration process for children aged over 5.

64. **Ms. Graham** (Gambia) said that the procedure for birth registration was very simple and accessible and did not stigmatize single women. For instance, the father of a child did not have to be present to affirm his paternity during birth registration. With regard to the reduced number of women in ministerial positions, the Gambia suffered from a high exodus of skilled workers which, given its small population, undoubtedly had an impact on women's occupancy of decision-making positions.

65. **Mr. Marong** (Gambia) said that the Women's Act and the Constitution itself contained mandatory provisions prohibiting all forms of discrimination against women in all aspects of public and private life. The Act promoted greater participation of women in political and other decision-making bodies, and temporary special measures in line with the Committee's general recommendation No. 25 had also been introduced.

66. **Ms. Graham** (Gambia) said that the National Women's Council and Bureau were the main State bodies responsible for implementation of the Beijing Platform for Action and national policies. It was the Council's duty to advise the Government on measures ensuring the participation of women in the economic, social and cultural development of the Gambia. The Bureau, on the other hand, was responsible for the daily administration and implementation of gender policies drafted by the Council.

67. **Mr. Marong** (Gambia), in response to the Chairperson's question on sanctions, said that violations of the Women's Act were subject to fines or 2-year prison sentences.

68. **Ms. Jahan** said that, although the enrolment of girls at primary school level had increased, the completion rate of primary education for girls was lower than for boys. As for secondary and tertiary education, the enrolment and retention rate for girls was considerably lower than for boys, which inevitably affected girls' access to employment. A significant disparity between urban and rural education rates for girls also existed and, therefore, the Committee wished to know whether State education policies were supported by an adequately resourced monitoring system. Moreover, she asked what percentage of the State budget was devoted to promoting girls' access to education, and what steps were being taken to address the hidden costs of ostensibly free primary education in order to allow girls from poor families to attend school. Furthermore, given that the Education Sector Strategic Plan 2006–2015 was coming to an end, she wondered whether the adoption of a new long-term plan was envisaged by the State party, whether it would include temporary special measures, and whether it would seek to minimize education costs.

69. The Committee wished to know what measures were taken to promote access to education for girls with disabilities, and to prevent girls from being taken out of school for the purpose of early marriage which, although prohibited under the Women's Act, was still widely practised. Child marriage should be prevented through legislative change as it had a negative impact on female education. It would be useful to know how the Government was enabling young mothers to return to school, whether the State intended to provide age-appropriate education on the topic of sexual and reproductive health, particularly since teenage pregnancy was a major reason for girls dropping out of school, what laws and sanctions existed against the sexual harassment and abuse of girls in schools by fellow pupils and teachers, and whether the State party was seeking to make schools more girl-friendly, such as by providing separate toilets for girls and boys.

70. **Ms. Patten** said that the low percentage of women employed in the civil service was a cause for concern, particularly as they mainly occupied subordinate rather than managerial positions. She wondered whether studies would be conducted to address entrenched discrimination in hiring procedures in the civil service, and whether the

Government intended to adopt temporary special measures to promote the employment of women in that sector and in the private formal sector. Was the State party considering a reform to the Labour Act in order to address the issue of sexual harassment in the workplace by providing an appropriate definition in line with international norms, and was there a process of engagement with the private sector to tackle the same issue? She also wished to know whether more funding was being provided to establish labour inspection services, whether the inspectors would be trained to carry out their work effectively, and whether there were plans to establish a special advisory unit on the issue of women's employment within the Ministry of Labour.

71. With regard to wage gaps between men and women, alternative sources maintained that a pay gap still existed in both the public and the private sector. She asked how pay equity was monitored in the private sector, whether the Government insisted on equal pay for work of equal value, and whether mechanisms were in place to conduct job evaluations using methods free from gender bias.

72. Finally, she asked what was being done to strengthen women's microenterprises and facilitate their transition from the informal to the formal sector, and whether outreach programmes were being implemented in rural areas to improve women's access to the labour market and to new technologies.

The meeting rose at 1 p.m.

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Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women
Sixty-first session

Summary record (partial)* of the 1312nd meeting
Held at the Palais des Nations, Geneva, on Thursday, 9 July 2015, at 3 p.m.

Chairperson: Ms. Hayashi

Contents

Consideration of reports submitted by States parties under article 18 of the Convention (*continued*)

Combined fourth and fifth periodic reports of the Gambia (continued)

* No summary record was prepared for the rest of the meeting.

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of the present document* to the English Translation Section, room E.6040, Palais des Nations, Geneva (trad_sec_eng@unog.ch).

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 18 of the Convention (*continued*)

Combined fourth and fifth periodic reports of the Gambia (continued) (CEDAW/C/GMB/4-5 and CEDAW/C/GMB/Q/4-5)

1. *At the invitation of the Chairperson, the delegation of the Gambia took places at the Committee table.*

Articles 10 to 14

2. **Ms. Chalal** asked whether the State party intended to decriminalize abortion and expand the grounds on which it could be performed to include cases of rape, incest and foetal impairment. She said that further information was needed on the impact of unsafe abortion on women's health, including the maternal mortality rate. She also wished to know the prevalence of early pregnancies and the measures envisaged to increase the availability and accessibility of age-appropriate comprehensive sexual and reproductive health care and education, including modern contraception methods. What measures had been adopted to address the persistently high rates of maternal and infant mortality, particularly among ethnic minority groups, and the persisting lack of access to basic health-care services, including essential obstetric care, trained personnel and modern medical equipment, especially in rural areas? Lastly, she asked what programmes had been introduced to support women with HIV/AIDS and prevent mother-to-child transmission of the disease.

3. **Ms. Graham** (Gambia) said that, despite the de jure prohibition of abortion, women could, in practice, request an abortion in cases of rape or incest. As to early pregnancy, the Government had implemented a range of policies to encourage teenage mothers to continue their education following the birth of their child. However, there had been some reports of bullying and hostility towards teenage mothers upon their return to school. Specialist counselling and support was provided to women with HIV/AIDS and numerous measures had been adopted to prevent mother-to-child transmission, such as the provision of breast-milk substitutes to nursing mothers, which had led to a reduction in the number of HIV/AIDS cases recorded over recent years. Steps had also been taken to make HIV/AIDS tests and condoms available to women sex workers.

4. **Ms. Jahan** asked what measures had been introduced to increase the school enrolment rate of girls, particularly at the tertiary level, which remained low; to reduce the school dropout rate among girls; to eliminate economic, social and cultural obstacles to girls' access to education, including child and forced marriage and adolescent pregnancy; to eliminate stereotypical attitudes about the roles and responsibilities of women and men in textbooks; and to increase the number of women teachers and university professors.

5. **Ms. Graham** (Gambia) said that she would provide detailed written replies concerning the State party's implementation of articles 10 and 11 of the Convention at a later date. However, it should be noted that the Government faced ongoing financial constraints that restricted its ability to mainstream gender across all of its policies. Concerted efforts had been made to improve access to education for girls, but further work would be required to combat negative gender stereotypes and early and forced marriage and to improve the enrolment rate of girls at the secondary and tertiary levels. There were very few, if any, opportunities for girls with disabilities to attend mainstream schools and universities.

6. **Ms. Patten** asked whether measures had been taken to improve the social protection afforded to women working in the informal sector and to promote their transition to the formal sector. She also wished to know what efforts had been made to address the gender pay gap and combat sexual harassment in the workplace.

7. **Ms. Graham** (Gambia) said that cases of sexual harassment against women in the workplace were punishable by law and women could report their cases to the police for criminal investigation.

8. **Ms. Pomeranzi** asked whether steps would be taken to promote women's economic empowerment and facilitate their access to credit and loans so that they could start their own businesses. She also wished to know what measures had been adopted to ensure that rural women had equal access to landownership and management, agricultural support and economic opportunities, including income-generating projects and credit facilities, on an equal and equitable basis with men and with their urban counterparts. As for women with disabilities, she asked what efforts had been made to implement the provisions of the Convention on the Rights of Persons with Disabilities, particularly with regard to their access to education and employment. She also wished to know whether the State party intended to repeal the provisions prohibiting homosexual acts contained in the Criminal Code and to protect the lesbian, gay, bisexual and transgender community against persecution. Lastly, she asked what steps had been taken to improve the poor living conditions of women held in detention and to protect them against acts of gender-based violence.

9. **Ms. Graham** (Gambia) said that homosexuals were not prosecuted by virtue of being homosexuals; only their engaging in sexual activities was punishable. The Gambia did not recognize homosexual rights.

10. The Government had a number of peri-urban small scale improvement projects, such as small holding production credit schemes for mixed farming for the fattening of small ruminants, poultry and rabbits, and for dairy production, which had benefited rural women.

11. The national tourism plan for the period 2005–2015 provided women with the opportunity to engage in economic activities. Tourism gave rise to over 10,000 direct and indirect jobs. Rural women sold agricultural produce, poultry and vegetables to hotels and engaged in handicrafts, gardening and marketing. They received training which had enabled them to enter the tourism market and form associations. They also ran small and medium enterprises catering to tourists, such as hair dressing, juice processing, tailoring, manicure and pedicure businesses, and worked as tourist guides. The establishment of an investment bank called Reliance Financial Services provided access to investment finance for low-income women engaged in petty trading.

12. The Gambia Priority Employment Programme (GAMJOBS), working through the United Nations Development Programme (UNDP), was supporting a microfinance project and offering training on food production and processing, targeting the rural poor. It assisted women in the area of enterprise development, offering training for young entrepreneurs, and it provided vocational training for employment in agriculture. It also helped women enhance their agricultural proceeds by assisting them with fertilizers and methods of food preservation.

13. The Ministry of Trade and Employment had established a microfinance fund to promote equal access to financial resources and labour-intensive public work programmes in solid waste management and disposal, and women were given preference in those initiatives.

14. A project of the New Partnership for Africa's Development (NEPAD)/Spanish Fund for African Women's Empowerment, which had been implemented by the

National Women's Bureau, aimed to eradicate poverty among rural women by helping them to increase production and to enhance the ability of the Bureau to give support to women's group (*kafou*) gardens throughout the country. It built storage and processing plants and provided training.

15. Through the Ministry of Trade and Employment and with the assistance of the National Authorizing Officer Support Unit for the European Commission, the Government had organized trade fairs in which rural women had participated. The Chamber of Commerce provided a platform for rural women to showcase their work. The Government had developed an action plan to mitigate the adverse consequences of the food crisis and had programmes to support smallholder irrigation. In addition to the above-mentioned projects aimed at alleviating the suffering of the rural poor, a number of associations and organizations played a key role in advocating for women's access, ownership and control of productive resources, including land.

16. The Programme for Accelerated Growth and Employment, which was the successor to the second poverty reduction strategy paper of the Gambia, aimed to improve employment levels, per capita income, gender equity and the economic competitiveness of the country. In the past two decades, the Government had taken concrete action to mainstream women's issues into the development process and treated rural women and urban women equally. It had also enacted the Women's Act, stipulating that government departments and other public institutions must implement measures, policies and strategies to eliminate employment discrimination and segregation and to establish periodic training for personnel on gender issues.

17. Rural women submitted the titles of their properties as collateral to banks; it was to be expected that banks asked individuals seeking credit for collateral. However, rural women did have other means with which to improve their economic situation.

18. The children of rural women were not trapped in poverty; some were doctors, lawyers and the like, and most lived in urban areas and did not inherit the predicament of their parents.

19. Regarding women in power and decision-making, section 26 of the 1997 Constitution recognized the right of women to participate in political and public life. Policy decisions were geared towards effective gender representation in government institutions and the private sector.

20. Prison conditions tended to be extremely poor, and there were problems such as overcrowding. The Government was building a new prison centre a few kilometres away from the Banjul area. Women's detention centres, unlike men's, were not overcrowded because only a small number of women were convicted. Most were convicted for infanticide, baby dumping, drug trafficking, or fighting leading to death. Prison conditions had improved over the years, including the provision of television facilities, running water, waiting rooms, reception areas and libraries, and prisoners were fed three times a day. Male and female prisoners were housed separately, and the women and children's sections of prisons were not overcrowded.

21. **Ms. Pomeranzi** said that the programmes set up by the Government in partnership with the international development community displayed little synergy and often overlapped. What the Government was doing for rural areas was insufficient and too fragmented. Would the Government consider specific procedures for harmonizing resources and for dialogue with partners? Would it envisage procedures for setting benchmarks that would be easy to monitor and would provide information about what was happening at the local and community levels? Such strategies would enable the Government to measure the impact of the Women's Act of 2010 on women's landownership.

22. **Ms. Schulz** noted that infanticide was often the desperate act of a woman or girl confronted with a pregnancy that she could not accept, either because it was the result of rape or incest or because she was too poor, too young or already had too many children to be able to face another child and mouth to feed. It was often linked to repressive legislation on abortion, whereby women were not able or allowed to resort to safe legal abortion. Was prison the place for such women, or should the Government consider revising its legislation on abortion by broadening the circumstances under which abortion was permitted and imprisoning only those women who were threatening the public order rather than women who were the victims of socioeconomic conditions? In all countries, women who had sufficient resources and were well educated managed to prevent pregnancy, while poor women did not.

23. **Ms. Graham** (Gambia), referring to infanticide, said that those guilty of that crime were women whose husbands had travelled abroad, becoming pregnant during their absence. Infanticide had nothing to do with poverty; it was a personal choice. To take away the right to life was a very serious offence in the Gambia, for which there was no justification. It was an informed choice, the act was carefully considered, it was premeditated, and the intention was to kill and to inflict grievous bodily harm.

24. Returning to the issue of rural women, she said that section 23 of the Women's Act guaranteed the rights of women in rural communities and required all governmental bodies and private organizations to take measures to eliminate discrimination against women in rural areas. It also stipulated that the Government was to ensure that rural women participated in and benefited from rural development projects and that rural women had: the right to participate in the conceptualization, elaboration and implementation of such projects; the right to benefit directly from social security programmes; the right to access all types of training and education; the right to benefit from all community and advisory services; the right to access agricultural credit and loans, marketing facilities and appropriate technology; the right to equal treatment with regard to land; and the right to benefit from agrarian reform of landownership in land settlement schemes. Section 23 of the Women's Act recognized the problems faced by rural women, and made it the Government's responsibility to ensure that their rights were realized.

25. **The Chairperson** asked the Gambian representative why women committed infanticide if they had access to abortion and why her delegation had said that every clinic performed abortions, while women were imprisoned for infanticide for having such operations.

26. **Ms. Graham** (Gambia) said that the law did not take into consideration the intention of the perpetrator of the crime. People from neighbouring countries came to the Gambia to dump their babies or attempt to abort a foetus; that was criminal behaviour that had to be addressed by the law and for which there were penalties that had to be meted out. It had nothing to do with poverty or a lack of access to medical abortion centres.

27. **Ms. Gbedemah** said that she wondered why, if abortion was freely available, a woman would carry a pregnancy to term and go through labour only to strangle a child. The delegation's explanation that the women who committed infanticide had engaged in misconduct, and were traumatized and wanted a way out, showed that a particular mental state was probably influencing the process. There was a good reason why in most criminal courts there existed the opportunity to consider the mental condition of a woman who killed her child. There was medical recognition of the fact that if the woman did not have enough of a support system or backing in the post-birth period, she was capable of anything. In earlier times in Africa, when a woman had a child, her grandmother, aunt and other relatives were present. Driven by some of the above-mentioned factors, infanticide could happen, and therefore prison was not the

appropriate place for women in such situations. If the choice were there, women would not go through with a pregnancy, and if they had support, women would probably not kill their babies.

28. **Ms. Graham** (Gambia) said that only a negligible number of women were convicted for infanticide. By the time women came to the medical clinic — after the first trimester — it was too late to abort the foetus and that might be a contributing factor. However, the position of the law at the current time was as she had described earlier. The delegation would take the Committee's contributions into consideration.

29. **Mr. Marong** (Gambia) said that abortion was allowed when the pregnancy threatened the life of the mother or foetus, but indiscriminate abortion was not allowed.

Articles 15 and 16

30. **Ms. Gbedemah** stressed that if, as the delegation had stated, the Women's Act incorporated the provisions of the Convention, which prohibited any form of discrimination against women, then those provisions must inform court decisions involving women's rights. She said that the area of family law was especially important because it governed women's daily reality and she expressed concern that section 33, subsection 5, of the Constitution stated that the prohibition of discrimination did not apply in respect of marriage, divorce, adoption, burial and devolution of property on death, which were matters of personal law governed by customary and sharia law.

31. Drawing the delegation's attention to the Committee's general recommendation No. 29 on the economic consequences of marriage, family relations and their dissolution, and with reference to the *Matty Faye v. Dawda Jawara* case, where the court had declared that Ms. Faye was entitled to an equitable share of her matrimonial property, she asked whether equitable was the same as equal. She was also concerned by the statement in the delegation's responses that the courts took into account the Women's Act when it was invoked; given that women might not be aware of their rights or might not have legal counsel, the courts should automatically apply the provisions of the Act, which should take precedence over customary and sharia law even in personal matters.

32. She asked whether judges received training on the application of the Convention and the Women's Act, whether they actually applied the law, whether any follow-up took place to ensure that the Act was being implemented and whether the delegation could provide any examples of recent decisions involving the Act. The delegation should indicate whether the State party envisaged amending the Constitution to eliminate the exemption of personal law from its anti-discrimination provisions and follow the best practices of other Muslim countries in such areas as the minimum age for marriage, divorce and polygamy.

33. She was especially concerned that, although the Children's Act outlawed child marriage, approximately 8 per cent of married women in the 15–49 age group had been married before the age of 15 and 40 per cent had been married before 18. The delegation should provide information on any measures envisaged to prevent early or forced marriage, which had grave consequences for the health, education and independence of girls. The State party should monitor the situation and ensure that cases of early or forced marriage were prosecuted. In that context she stressed the need to ensure the registration of the births in order to know girls' true age, in particular in rural areas. Religious leaders must also be encouraged to adopt a liberal interpretation of customary and religious law that took into account girls' and women's rights.

34. **Ms. Graham** (Gambia) said that polygamy was an accepted aspect of Gambia's cultural diversity that would not soon change. While she did not exclude the possibility of discussing an amendment of section 33, subsection 5, of the Constitution to eliminate the exception of personal matters from its anti-discrimination provisions, she pointed out that pursuant to the Women's Act women already enjoyed equality to men in most areas, including civil matters, the workplace, access to justice and freedom of movement. She understood the Committee's concerns but reiterated that in the Gambian context personal matters were a matter of choice. Some religious leaders were more liberal and there might come a time when the religious community would recommend amending the Constitution, a recommendation the Government would surely implement.

35. With regard to birth registration, she said that only one parent needed to register a birth and did not even have to do it in person. Her Government would be willing to study the registration practices in other countries in consultation with religious leaders, who, she stressed, were not extremist. With regard to early marriage, she said that the Women's Act and Children's Act prohibited child marriage and noted that the Constitution required that the bride and groom must be of full age and capacity and that the marriage must have the free and full consent of the parties. There were civil society organizations that were working on the issue of early marriage; any dispute relating to marriage was resolved by binding judicial decisions. With regard to the *Faye v. Jawara* case, she said that "equitable share" meant the share of the matrimonial property to which the woman was entitled, which, under Islamic law, was one third.

36. **Ms. Acar** underscored that culture was a man-made thing that changed and evolved; cultural diversity could not be invoked as an excuse for violating human rights. She herself was from a Muslim country that had a secular legal system. The Convention was an international agreement that the State party must implement to protect the rights of women. The State party should prevail upon religious and traditional leaders to adopt a more flexible stance.

37. Since health care and family planning might be considered to come under personal law, she asked if Gambian women had free access to those services or whether, under Islamic law, they had to have their husband's permission. She also asked how the delegation could justify polygamy, which was a form of structural discrimination that could even lead to violence between women.

38. **Ms. Haidar** stressed that there were varying interpretations of the Koranic texts relating to the possibility of marriage; for example some said that polygamy should only occur in exceptional situations while others said that the woman must agree to a polygamous marriage. She did not agree that polygamy was an integral part of Islam; the overarching principle must be that of fair treatment of the woman.

39. **Ms. Gabr** pointed out that she came from a Muslim country where sharia law existed but where women's rights were respected overall and women lived a normal life with few restrictions. Egypt could perhaps serve as an example to the State party.

40. **Ms. Graham** (Gambia) said that in Gambia polygamy was not considered to be bigamy and had never been a source of friction within communities or between communities. Polygamy was even seen in a positive light in the Islamic community. The family links between communities and tribes strengthened social cohesion and contributed to the Gambia's peaceful and tolerant coexistence among religious, cultural and tribal groups. It would be difficult to induce people to change what they considered to be an excellent system. She knew of no cases of polygamy leading to violence among wives. With regard to women's access to health care and family planning, she said women's right to health was guaranteed by the Women's Act.

Women did not have to have their spouse's permission to seek such services, in particular in cases where a mother's life was at risk.

41. **The Chairperson** suggested that the delegation could provide written responses to any unanswered questions. She thanked the delegation for a constructive dialogue and encouraged the State party to address the Committee's recommendations with a view to a more comprehensive implementation of the Convention. She underscored the State party's obligation to eliminate social and cultural stereotypes regarding the roles of women and men and hoped that in the future the State party and the Committee would have closer views on cultural diversity.

42. **Ms. Graham** (Gambia) thanked the Committee members for their interest in the situation of women in the Gambia; the Committee's recommendations would be transmitted to the Head of State and the Ministry of Women's Affairs. She looked forward to the consideration of the next report, which she hoped would be equally fruitful.

The discussion covered in the summary record ended at 5 p.m.